

2-9-2015

State v. Herreman-Garcia Clerk's Record Dckt. 42941

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

ANA GISELLE HERREMAN-GARCIA,

Defendant-Appellant.

Supreme Court Case No. 42941

CLERK'S RECORD ON APPEAL

Appeal from the District Court of the Fourth Judicial District, in and for the County of Ada.

HONORABLE DEBORAH BAIL

AARON J. TRIBBLE

ATTORNEY FOR APPELLANT

EAGLE, IDAHO

LAWRENCE G. WASDEN

ATTORNEY FOR RESPONDENT

BOISE, IDAHO

State of Idaho vs. Ana Giselle Herreman-Garcia

Date	Code	User		Judge
4/21/2014	CRCO	TCMCCOSL	Criminal Complaint	Magistrate Court Clerk
4/22/2014	NCRF	PRSCHOKF	New Case Filed - Felony	Magistrate Court Clerk
	PROS	PRSCHOKF	Prosecutor assigned Ada County Prosecutor	Magistrate Court Clerk
	XSEA	PRSCHOKF	Case Sealed	Magistrate Court Clerk
	WARI	TCTURNJM	Warrant Issued - Arrest Bond amount: 100000.00 Defendant: Herreman, Ana Giselle	Magistrate Court Clerk
	STAT	TCTURNJM	STATUS CHANGED: Inactive	Magistrate Court Clerk
5/2/2014	APNG	TCCHRIKE	Appear & Plead Not Guilty / Tribble	Magistrate Court Clerk
	RQDD	TCCHRIKE	Defendant's Request for Discovery	Magistrate Court Clerk
5/6/2014	CHGA	TCMARKSA	Judge Change: Administrative	Daniel L Steckel
	HRSC	TCMARKSA	Hearing Scheduled (AC Pretrial Conference 06/10/2014 09:15 AM)	Daniel L Steckel
	HRSC	TCMARKSA	Hearing Scheduled (Jury Trial 07/09/2014 08:15 AM)	Daniel L Steckel
	NOTH	TCMARKSA	Notice Of Hearing	Daniel L Steckel
5/21/2014	WART	TCMCCOSL	Warrant Returned Defendant: Herreman-Garcia, Ana Giselle	Daniel L Steckel
	XUNS	TCMCCOSL	Case Un-sealed	Daniel L Steckel
	STAT	TCMCCOSL	STATUS CHANGED: Pending	Daniel L Steckel
	BOOK	TCMCCOSL	Booked into Jail on:	Daniel L Steckel
	HRSC	TCMCCOSL	Hearing Scheduled (Video Arraignment 05/21/2014 01:30 PM)	Michael Oths
	ARRN	TCPOSELM	Hearing result for Video Arraignment scheduled on 05/21/2014 01:30 PM: Arraignment / First Appearance	Michael Oths
	CHGA	TCPOSELM	Judge Change: Administrative	Theresa Gardunia
	HRSC	TCPOSELM	Hearing Scheduled (Preliminary 06/10/2014 08:30 AM)	Theresa Gardunia
	BSET	TCPOSELM	BOND SET: at 7500.00 - (I18-2403 {F} Theft-Grand)	Theresa Gardunia
	NOTH	MADALERD	Notice Of Hearing	Theresa Gardunia
5/22/2014	BNDS	TCROBIMD	Bond Posted - Surety (Amount 7500.00)	Theresa Gardunia
6/4/2014	RQDS	TCOLSOMC	State/City Request for Discovery	Theresa Gardunia
	RSDS	TCOLSOMC	State/City Response to Discovery [unable to locate-possibly entered in error]	Theresa Gardunia
	PHRD	TCOLSOMC	Preliminary Hearing Response to Request for Discovery and Objections	Theresa Gardunia
6/6/2014	STIP	TCLANGAJ	Stipulation to Reset Preliminary Hearing	Theresa Gardunia
6/9/2014	ORDR	TCHOCA	Order to Reset Preliminary Hearing [entered in error]	Theresa Gardunia
6/12/2014	ORDR	TCHOCA	Order to Reset Preliminary Hearing	Theresa Gardunia

State of Idaho vs. Ana Giselle Herreman-Garcia

Date	Code	User	Judge
6/12/2014	CONT	TCHOCA	Continued (Preliminary 07/17/2014 08:30 AM)
6/17/2014	LETD	TCCHRIKE	Letter from Defendant
7/7/2014	RSDD	TCCHRIKE	Defendant's Response to Discovery
7/17/2014	PHRD	TCCHRIKE	Preliminary Hearing Response to Request for Discovery and Objections / First Supplemental
	PHHD	TCHOCA	Hearing result for Preliminary scheduled on 07/17/2014 08:30 AM: Preliminary Hearing Held
	CHGB	TCHOCA	Change Assigned Judge: Bind Over
	HRSC	TCHOCA	Hearing Scheduled (Arraignment 07/28/2014 01:30 PM)
	AMCO	TCHOCA	Amended Complaint Filed
	DSBC	TCHOCA	Dismissed by the Court (I18-3125 {F} Fraud-Possession of Financial Transaction Card, Number and/or FTC Forgery Devices)
	COMT	TCHOCA	Commitment
	MMNH	TCHOCA	Magistrate Minutes & Notice of Hearing
7/21/2014	INFO	TCCHRIKE	Information
7/22/2014	PROS	PRBRIGCA	Prosecutor assigned Kai E. Wittwer
7/28/2014	DCAR	CCVILLTL	Hearing result for Arraignment scheduled on 07/28/2014 01:30 PM: District Court Arraignment- Court Reporter: Susan Gambee Number of Pages: less than 100
	PLEA	CCVILLTL	A Plea is entered for charge: - NG (I18-2403 {F} Theft-Grand)
	PLEA	CCVILLTL	A Plea is entered for charge: - NG (I18-3601 Forgery)
	PLEA	CCVILLTL	A Plea is entered for charge: - NG (I18-3125 {F} Fraud-Possession of Financial Transaction Card, Number and/or FTC Forgery Devices)
	HRSC	CCVILLTL	Hearing Scheduled (Pretrial Conference 10/06/2014 09:30 AM)
	HRSC	CCVILLTL	Hearing Scheduled (Jury Trial 10/21/2014 09:30 AM)
		CCVILLTL	Notice of Trial Setting
8/14/2014	RSDS	TCCHRIKE	State/City Response to Discovery
8/29/2014	MOTN	TCCHRIKE	Motion to Extend Discovery Deadline
	MOTN	TCOLSOMC	Motion for Preparation of Transcript
9/2/2014	ORDR	CCVILLTL	Order for Preparation of Transcript
9/4/2014	ORDR	CCVILLTL	Order Extending Discovery Deadlines
9/5/2014	NOPT	TCOLSOMC	Notice of Preparation of Transcript
9/15/2014	RSDS	TCLANGAJ	State/City Response to Discovery/First Addendum

State of Idaho vs. Ana Giselle Herreman-Garcia

Date	Code	User	Judge
9/15/2014	TRAN	TCCHRIKE	Transcript Filed Deborah Bail
9/19/2014	RSDS	TCWRIGSA	State/City Response to Discovery/ Second Addendum Deborah Bail
	NOTC	TCWRIGSA	State's Notice of Intent to Offer Self-Authenticating Records Deborah Bail
9/24/2014	RSDS	TCWRIGSA	State/City Response to Discovery/ Third Addendum Deborah Bail
10/3/2014	MOCN	TCWRIGSA	Motion To Continue Jury Trial Deborah Bail
	RSDS	TCWEATRJ	State/City Response to Discovery/Fourth Addendum Deborah Bail
10/6/2014	HRVC	CCVILLTL	Hearing result for Jury Trial scheduled on 10/21/2014 09:30 AM: Hearing Vacated Deborah Bail
	DCHH	CCVILLTL	Hearing result for Pretrial Conference scheduled on 10/06/2014 09:30 AM: District Court Hearing Held Court Reporter: Susan Gambee Number of Transcript Pages for this hearing estimated: less than 100 Deborah Bail
	HRSC	CCVILLTL	Hearing Scheduled (Pretrial Conference 11/17/2014 09:30 AM) Deborah Bail
	HRSC	CCVILLTL	Hearing Scheduled (Jury Trial 12/02/2014 09:30 AM) Deborah Bail
		CCVILLTL	Notice of Re-Setting Trial Deborah Bail
10/7/2014	RSDS	TCWRIGSA	State/City Response to Discovery/ Fifth Addendum Deborah Bail
10/29/2014	NOTC	TCCHRIKE	State's Supplemental Notice of Intent to Offer Self-Authenticating Records Pursuant to I.R.E. 803(6) & 902(11) Deborah Bail
	RSDS	TCCHRIKE	State/City Response to Discovery /Sixth Addendum Deborah Bail
11/17/2014	DCHH	CCVILLTL	Hearing result for Pretrial Conference scheduled on 11/17/2014 09:30 AM: District Court Hearing Held Court Reporter: Susan Gambee Number of Transcript Pages for this hearing estimated: less than 100 Deborah Bail
		CCVILLTL	Request for Interpreter Deborah Bail
	MOTN	TCCHRIKE	Motion to Exclude Victim Witnesses Deborah Bail
11/20/2014	WITN	TCLANGAJ	Witness List/State Deborah Bail
	MISC	TCOLSOMC	Defendant's List of Potential Trial Witnesses Deborah Bail
11/26/2014	RSDS	TCLANGAJ	State/City Response to Discovery/Seventh Addednum Deborah Bail
	MISC	TCKEENMM	Defendant's Proposed Jury Instructions Deborah Bail
12/2/2014	CONT	CCVILLTL	Continued (Jury Trial 12/02/2014 01:30 PM) Deborah Bail
	MISC	CCVILLTL	State's Trial Exhibit List Deborah Bail

State of Idaho vs. Ana Giselle Herreman-Garcia

Date	Code	User	Judge
12/2/2014	DCHH	CCVILLTL	Hearing result for Jury Trial scheduled on 12/02/2014 01:30 PM: District Court Hearing Held Court Reporter: Susan Gambee Number of Transcript Pages for this hearing estimated: 250 Deborah Bail
	JTST	CCVILLTL	Jury Trial Started Deborah Bail
12/3/2014	DCHH	CCVILLTL	District Court Hearing Held Court Reporter: Susan Gambee Number of Transcript Pages for this hearing estimated: 500 - Jury Trial Day 2 Deborah Bail
12/4/2014	DCHH	CCVILLTL	District Court Hearing Held Court Reporter: Susan Gambee Number of Transcript Pages for this hearing estimated: 500 - Jury Trial Day 3 Deborah Bail
	HRSC	CCVILLTL	Hearing Scheduled (Jury Trial 12/05/2014 09:30 AM) Day 4 Deborah Bail
12/5/2014	DCHH	CCNELSRF	Hearing result for Jury Trial scheduled on 12/05/2014 09:30 AM: District Court Hearing Held Court Reporter: Susan Gambee Number of Transcript Pages for this hearing estimated: 500, Day 4 Jury Trial Deborah Bail
	HRSC	CCNELSRF	Hearing Scheduled (Sentencing 01/26/2015 03:00 PM) Deborah Bail
	FIGT	CCNELSRF	Finding of Guilty (I18-2403 {F} Theft-Grand) Deborah Bail
	FIGT	CCNELSRF	Finding of Guilty (I18-3601 Forgery) Deborah Bail
	STAT	CCNELSRF	STATUS CHANGED: closed pending clerk action Deborah Bail
	BSET	CCNELSRF	BOND SET: at 50000.00 - (I18-2403 {F} Theft-Grand) Deborah Bail
	MISC	CCNELSRF	Increase Bond \$50,000.00 Deborah Bail
12/8/2014	PSIO1	CCNELSRF	Pre-Sentence Investigation Evaluation Ordered Deborah Bail
	JUIN	CCNELSRF	Jury Instructions Filed Deborah Bail
	VERD	CCNELSRF	Verdict Form (Grand Theft) Deborah Bail
	VERD	CCNELSRF	Verdict Form (Forgery) Deborah Bail
	BNDS	TCROBIMD	Bond Posted - Surety (Amount 50000.00) Deborah Bail
12/19/2014	MOTN	TCOLSOMC	Motion for JNOV and Motion for New Trial Deborah Bail
	MEMO	TCOLSOMC	Memorandum in Support of Motion for JNOV and Motion for New Trial Deborah Bail
1/6/2015	MEMO	TCOLSOMC	State's Memorandum in Opposition to Defendant's Motion for JNOV (Judgment of Acquittal) and Motion for New Trial Deborah Bail
1/26/2015	DCHH	CCVILLTL	Hearing result for Sentencing scheduled on 01/26/2015 03:00 PM: District Court Hearing Held Court Reporter: Susan Gambee Number of Transcript Pages for this hearing estimated: less than 100 Deborah Bail

State of Idaho vs. Ana Giselle Herreman-Garcia

Date	Code	User	Judge
1/26/2015	JAIL	CCVILLTL	Sentenced to Jail or Detention (I18-2403 {F} Theft-Grand) Confinement terms: Penitentiary determinate: 6 months. Penitentiary indeterminate: 5 years 6 months. Deborah Bail
	JAIL	CCVILLTL	Sentenced to Jail or Detention (I18-3601 Forgery) Confinement terms: Penitentiary determinate: 6 months. Penitentiary indeterminate: 5 years 6 months. Deborah Bail
	CONC	CCVILLTL	Concurrent Sentencing (I18-3601 Forgery) Consecutive Sentence: Concurrent with: Count I Deborah Bail
	RESR	CCVILLTL	Restitution Recommended by the Prosecutor's office. 34569.96 victim # 1 Deborah Bail
1/28/2015	JCOC	DCDOUGLI	Judgment & Commitment Deborah Bail
	BNDE	DCDOUGLI	Surety Bond Exonerated (Amount 7,500.00) Deborah Bail
	BNDE	DCDOUGLI	Surety Bond Exonerated (Amount 50,000.00) Deborah Bail
	ORDR	DCDOUGLI	Order for Restitution and Judgment Deborah Bail
2/9/2015	APSC	TCOLSOMC	Appealed To The Supreme Court Deborah Bail
	NOTA	TCOLSOMC	NOTICE OF APPEAL Deborah Bail
	MOTN	TCOLSOMC	Motion to Stay Imprisonment Deborah Bail
2/11/2015	ORDR	CCVILLTL	Order Denying Motion to Stay Imprisonment Deborah Bail
2/23/2015	NOTA	TCCHRIKE	Amended NOTICE OF APPEAL Deborah Bail
4/17/2015	MOTT	TCCHRIKE	Motion To Transport and Release Bond Deborah Bail
4/29/2015	NOTC	TCWEGEKE	Notice of Transcript Lodged - Supreme Court No. 42941 Deborah Bail

APR 21 2014

CHRISTOPHER D. RICH, Clerk
By STORMY MCCORMACK
DEPUTY

DR # 13-321008

GREG H. BOWER

Ada County Prosecuting Attorney

Douglas R. Varie

Deputy Prosecuting Attorney

200 W. Front Street, Room 3191

Boise, Idaho 83702

Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

ANA GISELLE HERREMAN-GARCIA,

Defendant.

Case No. CR-FE-2014-0005550

COMPLAINT

Herreman's

Herreman's

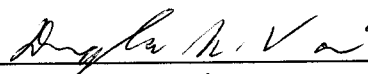
PERSONALLY APPEARED Before me this 21st day of April 2014, Douglas R. Varie, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, who, being first duly sworn, complains and says: that ANA GISELLE HERREMAN GARCIA, on or between the 9th day of March, 2009 and the 31st day of October, 2011, in the County of Ada, State of Idaho, did commit the crime of GRAND THEFT, FELONY, I.C. §18-2403(1), 2407(1)(b), 2409 as follows:

That the Defendant, ANA GISELLE HERREMAN GARCIA, on or between the 9th day of March, 2009 and the 31st day of October, 2011, in the County of Ada, State of Idaho, did wrongfully take cash of a value in excess of One Thousand Dollars (\$1,000.00) lawful money of the United States from the owner, A&A Landscape, with the intent to appropriate to herself certain property of another.

All of which is contrary to the form, force and effect of the statute in such case and against the peace and dignity of the State of Idaho.

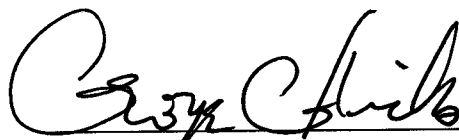
Said Complainant therefore prays that a Warrant issue for the arrest of the Defendant and that ANA GISELLE HERREMAN GARCIA, may be dealt with according to law.

GREG H. BOWER
Ada County Prosecutor



Douglas R. Varie
Deputy Prosecuting Attorney

SUBSCRIBED AND Sworn to before me this 2nd day of April 2014.



Magistrate

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
STATE OF IDAHO, ADA COUNTY, MAGISTRATE DIVISION
PROBABLE CAUSE FORM

STATE OF IDAHO

CASE NO. _____

VS

CLERK L. Poser

Ana Giselle Herreman Garcia

DATE 4/21/14 TIME 1:55

PROSECUTOR D. Varie

CASE ID _____ BEG. 15555

COMPLAINING WITNESS _____

COURTROOM 401 END 20157

INTOX _____

JUDGE

STATUS

- ☐ BEREZ
- ☐ BIETER
- ☐ CAWTHON
- ☐ COMSTOCK
- ☐ ELLIS
- ☐ FORTIER
- ☐ GARDUNIA
- ☐ HARRIGFELD
- ☐ HAWLEY
- ☒ HICKS

- ☐ MacGREGOR-IRBY
- ☐ MANWEILER
- ☐ McDANIEL
- ☐ MINDER
- ☐ OTHS
- ☐ REARDON
- ☐ SCHMIDT
- ☐ STECKEL
- ☐ SWAIN
- ☐ WATKINS

- ☒ STATE SWORN
- ☒ PC FOUND _____
- ☒ COMPLAINT SIGNED
- ☐ AMENDED COMPLAINT SIGNED
- ☐ AFFIDAVIT SIGNED
- ☐ JUDICIAL NOTICE TAKEN
- ☐ NO PC FOUND _____
- ☐ EXONERATE BOND _____
- ☐ SUMMONS TO BE ISSUED
- ☒ WARRANT ISSUED
- ☒ BOND SET \$ 100,000
- ☐ NO CONTACT

- ☐ KIBODEAUX
- ☐ _____
- ☐ _____

- DR# _____
- ☐ DISMISS CASE
- ☐ IN CUSTODY

COMMENTS

- ☐ AGENTS WARRANT _____
- ☐ RULE 5(B) _____
- ☐ FUGITIVE _____
- ☐ MOTION & ORDER TO CONSOLIDATE _____
- _____
- _____
- _____

TIME RECEIVED
May 2, 2014 12:18:05 PM MDT

REMOTE CSID
9389504

DURATION
48

PAGES
2

STATUS
Received

May. 2. 2014 12:21PM Law Office

No. 3668 P. 1/2

NO. _____ FILED _____
A.M. _____ P.M. _____

MAY - 2 2014

CHRISTOPHER D. RICH, Clerk
By SHERRI BOUCHER
DEPUTY

Aaron J. Tribble ISB#8951
Eagle Law Center
1191 E. Iron Eagle Dr.
Suite 200
Eagle, ID 83616
T: 208-246-8850
F: 208-938-9504
E: aaron@eaglelawcenter.com

Attorney for Defendant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,

Plaintiff,

vs.

JISELLE HERREMAN,

Defendant.

CASE NO. CR-FE-2014-0005550

**NOTICE OF APPEARANCE AND
REQUEST FOR SPEEDY TRIAL**

Aaron J. Tribble of the Eagle Law Center hereby enters his Notice of Appearance as
attorney of record for Defendant, Jiselle Herreman, and requests a speedy jury trial.

DATED this 2nd day of May, 2014.


Aaron J. Tribble

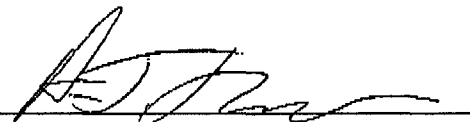
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of May, 2014, I caused a true and correct copy of the foregoing document to be served by the method indicated below, and addressed to the following:

Ada County Prosecutor's Office
200 W. Front Street Room 3191
Boise, ID 83702
Fax: 208-287-7709

☐ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☒ Facsimile



Aaron J. Tribble

Attorney for Defendant

TIME RECEIVED
May 2, 2014 12:27:34 PM MDT

REMOTE CSID
9389504

DURATION
93

PAGES
4

STATUS
Received

May. 2. 2014 12:29PM Law Office

No. 3669 P. 1/4

NO. _____ FILED _____
A.M. _____ P.M. _____

MAY - 2 2014

CHRISTOPHER D. RICH, Clerk
By SHERRI BOUCHER
DEPUTY

Aaron J. Tribble ISB#8951
Eagle Law Center
1191 E. Iron Eagle Dr.
Suite 200
Eagle, ID 83616
T: 208-246-8850
F: 208-938-9504
E: aaron@eaglelawcenter.com

Attorney for Defendant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,

Plaintiff,

vs.

JISELLE HERREMAN,

Defendant.

CASE NO. CR-FE-2014-0005550

REQUESTS FOR DISCOVERY

TO: ADA COUNTY PROSECUTOR

PLEASE TAKE NOTICE that the undersigned, pursuant to Rule 16 of the Idaho Criminal Rules, requests discovery and inspection of the following information, evidence, and materials:

1. **STATEMENT OF THE DEFENDANT:** The Defendant requests copies of any relevant written or recorded statements made by the Defendant, or copies thereof, within the possession, custody or control of the state, the existence of which is known or is available to the

1 prosecuting attorney by the exercise of due diligence; and also, the substance of any relevant, oral
2 statement made by the Defendant, whether before or after arrest to a peace officer, prosecuting
3 attorney or the prosecuting attorney's agent. The Defendant also specifically requests a copy of
4 any tape recordings made by the officer(s) at the scene of the arrest, during transport to the jail or
5 while at the jail.
6

7 2. **DEFENDANT'S PRIOR RECORD:** Request is made that the prosecuting
8 attorney furnish the Defendant a copy of his prior criminal record, if any, as is now available or
9 may become available to the prosecuting attorney in the future.

10 3. **DOCUMENTS AND TANGIBLE OBJECTS:** The Defendant requests that the
11 prosecuting attorney permit the Defendant to inspect and/or copy and/or photograph books,
12 papers, documents, photographs, tangible objects, buildings or places, or copies or portions
13 thereof, which are in the possession, custody or control of the prosecuting attorney and which are
14 material to the preparation of the defense, or intended for use by the prosecutor as evidence at
15 trial, or obtain from or belonging to the Defendant.
16

17 4. **REPORTS OF EXAMINATIONS AND TESTS:** The Defendant requests that
18 the prosecuting attorney permit the Defendant to inspect and copy or photograph any results or
19 reports of physical or mental examinations, including the alcohol influence report form if
20 applicable, and, if scientific tests or experiments, made in connection with the particular case, or
21 copies thereof, within the possession, custody or control of the prosecuting attorney, the existence
22 of which is known or is available to the prosecuting attorney by the exercise of due diligence.
23

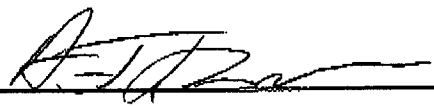
24 5. **INTOXILYZER 5000:** If applicable, the Defendant requests a copy of the
25 Intoxilyzer 5000 certification of the officer who operated the Intoxilyzer in this matter. In
26 addition, please produce the Intoxilyzer 5000 printer card and the Intoxilyzer 5000 instrument
27 operations log and maintenance records for three years prior to its use in this matter.
28

1 6. **STATE WITNESSES:** The Defendant requests that the state furnish to the
2 Defendant a written list of the names and addresses of all persons having knowledge of relevant
3 facts that may be called by the state as witnesses at the trial, together with any record or prior
4 felony convictions of any such person which is within the knowledge of the prosecuting attorney.
5 The Defendant also requests that the prosecuting attorney furnish any statements made by
6 prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the
7 prosecuting attorney's agents or to any official involved in the investigatory process of the case.
8

9 7. **POLICE REPORTS:** The Defendant requests that the prosecuting attorney
10 furnish to the Defendant reports and memoranda in possession of the prosecuting attorney which
11 were made by police officers, including supplemental reports from assisting officers and dispatch
12 log, and/or investigators in connection with the investigation or prosecution of the case.
13

14 8. **EXPERT WITNESSES:** The Defendant requests that the prosecuting attorney
15 provide a written summary or report of any testimony the State intends to introduce pursuant to
16 Idaho Rules of Evidence 702, 703 or 705 at trial or hearing. The summary provided must
17 describe the witness's opinions, the facts and data for those opinions, and the witness's
18 qualifications.
19

20
21 DATED this 2nd day of May, 2014.

22
23 
24 Aaron J. Tribble

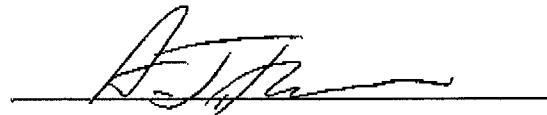
25 Attorney for Defendant
26
27
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of May, 2014, I caused a true and correct copy of the foregoing document to be served by the method indicated below, and addressed to the following:

Ada County Prosecutor's Office
200 W. Front Street Room 3191
Boise, ID 83702
Fax: 208-287-7709

☐ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☒ Facsimile



Aaron J. Tribble

Attorney for Defendant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA
MAGISTRATE DIVISION

200 W. Front Street, Boise Idaho 83702

STATE OF IDAHO,
Plaintiff.

vs.

Ana Giselle Herreman
2125 N. Five Mile #25
Boise, ID 83713

Defendant.

Case No: CR-FE-2014-0005550

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the above-entitled case is hereby set for:

AC Pretrial Conference....Tuesday, June 10, 2014....09:15 AM

Judge: Daniel L Steckel

Jury Trial....Wednesday, July 09, 2014....08:15 AM

Judge: Daniel L Steckel

THE DEFENDANT SHALL BE **PERSONALLY PRESENT** AT BOTH THE PRE-TRIAL CONFERENCE AND / OR THE JURY TRIAL. FAILURE TO APPEAR AT EITHER THE PRE-TRIAL CONFERENCE OR THE JURY TRIAL WILL RESULT IN A **BENCH WARRANT** FOR THE DEFENDANT'S **ARREST**.

I HEREBY CERTIFY that the foregoing is a true and correct copy of this Notice of Hearing entered by the court and on file in this office. I further certify that copies of this notice were served as follows:

Defendant: Mailed _____ Hand Delivered _____ Signature _____
Clerk _____ Date _____ Phone () _____

Aaron J Tribble
1191 E. Iron Eagle Dr., Ste. 200
Eagle ID 83616

Private Counsel: Mailed ✓ Hand Delivered _____ Signature _____
Clerk Am Date 5-8-14 Phone () _____

Prosecutor: Interdepartmental Mail ✓ ☒ Ada ☐ Boise ☐ Eagle ☐ G.C. ☐ Meridian
Clerk Am Date 5-8-14

Public Defender: Interdepartmental Mail _____
Clerk _____ Date _____

Other: _____

Mailed _____ Hand Delivered _____ Signature _____
Clerk _____ Date _____ Phone () _____

Dated: 5/6/2014

CHRISTOPHER D. RICH
Clerk of the Court

By: Sara Markle
Deputy Clerk

Cite Pay Website: <https://www.citepayusa.com/payments> Supreme Court Repository: <https://www.idcourts.us>

1032161

NO. 8:00 FILED PM
A.M.

MAY 21 2014

CHRISTOPHER D. RICH, Clerk
By STORMY McCORMACK
DEPUTY

DR # 13-321008
OFFICER: SPAIN
AGENCY: Boise Police Department

FAXED TO: Williston PD, ND

GREG H. BOWER
Ada County Prosecuting Attorney

APR 24 2014

Douglas R. Varie
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700
Fax: 287-7709

BY: MAGISOL
TIME: 17:50 ADA 5432

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
ANA GISELLE HERREMAN GARCIA,)
)
Defendant.)
)
_____)

Case No. CR-FE-2014-000 5550, 01.01

ARREST WARRANT

DR- 14-009502

Address: 1905 E DAKOTA PARK WAY 12, WILLISTON, ND

Sex: Female Race: Hispanic Height: 5'2" Weight: 110 lbs.
Hair/Eyes: Brown/Brown

TO ANY SHERIFF, CONSTABLE, MARSHAL OR POLICEMAN IN THE
STATE OF IDAHO:

ARRESTED
ADA COUNTY SHERIFF

ARREST WARRANT (HERREMAN GARCIA), Page 1

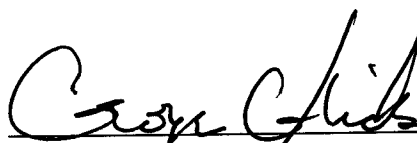
RECEIVED
Ada County Sheriff
WARRANTS
APR 22 2014
000017
Gary Raney, Sheriff
BOISE, IDAHO

5M

A COMPLAINT UPON OATH having been this day laid before me by Douglas R. Varie, Deputy Prosecuting Attorney, stating that the crime of: GRAND THEFT, FELONY, I.C. §18-2403(1), 2407(1)(b), 2409 has been committed, and accusing ANA GISELLE HERREMAN GARCIA thereof;

YOU ARE THEREFORE COMMANDED to immediately arrest the Defendant named above at any time during the day or night, and to bring him/her before me at my office in the County of Ada, or in case of my absence or inability to act, before the nearest or most accessible Magistrate in Ada County.

DATED This 21st day of April, 2014.

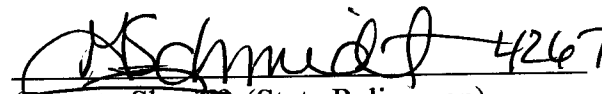


Magistrate for the District Court
of the Fourth Judicial District,
Magistrate Division

Bond \$ 100,000

RETURN OF SERVICE

I HEREBY CERTIFY that I served the foregoing Warrant by arresting the Defendant and bringing her into Court this 20th day of May, 2014.



Deputy Sheriff (State Policeman)
(City Policeman)

COMMITMENT FOR EXAMINATION AFTER APPEARANCE

THE WITHIN NAMED Defendant, having been brought before me under this Warrant, is committed for examination to the Sheriff of Ada County, State of Idaho, and is admitted to bail in the sum of \$_____, surety, cash or by undertaking of two sufficient sureties, and is committed to the custody of the Sheriff of Ada County until such bail is given. This Cause is continued for further appearance until _____ day of _____, 2014.

Magistrate for the District Court
of the Fourth Judicial District,
Magistrate Division

ORDER OF RELEASE

TO THE SHERIFF OF ADA COUNTY, IDAHO:

YOU ARE HEREBY ORDERED to release the Defendant from your custody.

DATED: _____

Magistrate for the District Court
of the Fourth Judicial District,
Magistrate Division

NCIC ENTRY: (Additional Levels Inclusive)

☐ North West Shuttle (ID, WA, OR)

☒ Western States (ID, WA, OR, MT, CA, WY, SD, ND, UT, CO,
AZ, NV)

☐ Nationwide

BY: DLV

DATED: 4-24-14

ADA COUNTY MAGISTRATE MINUTES

Ana Giselle Herreman-Garcia CR-FE-2014-0005550

Scheduled Event: Video Arraignment Wednesday, May 21, 2014 01:30 PM

Judge: Michael Oths Clerk: HP Interpreter: _____

Prosecuting Agency: ☒ AC ☐ BC ☐ EA ☐ GC ☐ MC

Pros: C McCurdy

PD / Attorney: Tribble

• 1118-2403 F Theft-Grand F

15015 Case Called Defendant: ☒ Present ☐ Not Present ☒ In Custody

☒ Advised of Rights ☐ Waived Rights ☐ PD Appointed ☐ Waived Attorney

☐ Guilty Plea / PV Admit ☐ N/G Plea ☐ Advise Subsequent Penalty

☒ Bond \$ 7500.00 ☐ ROR ☐ Pay / Stay ☐ Payment Agreement

☐ In Chambers ☐ PT Memo ☐ Written Guilty Plea ☐ No Contact Order

PH: 6/10/14 at 8:30
w/ Judge ~~Oths~~
Gardunia

Finish () Release Defendant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA
MAGISTRATE DIVISION

200 W. Front Street, Boise Idaho 83702

STATE OF IDAHO,
Plaintiff.

vs.

Ana Giselle Herreman-Garcia
2125 N. Five Mile #25
Boise, ID 83713
Defendant.

Case No: CR-FE-2014-0005550

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the above-entitled case is hereby set for:

Preliminary Tuesday, June 10, 2014.... 08:30 AM
Judge: Theresa Gardunia

THE DEFENDANT SHALL BE **PERSONALLY PRESENT** AT BOTH THE PRE-TRIAL CONFERENCE AND / OR THE JURY TRIAL. FAILURE TO APPEAR AT EITHER THE PRE-TRIAL CONFERENCE OR THE JURY TRIAL WILL RESULT IN A **BENCH WARRANT** FOR THE DEFENDANT'S ARREST.

I HEREBY CERTIFY that the foregoing is a true and correct copy of this Notice of Hearing entered by the court and on file in this office. I further certify that copies of this notice were served as follows:

Defendant: Mailed _____ Hand Delivered _____ Signature _____
Clerk _____ Date _____ Phone () _____

Aaron J Tribble
1191 E. Iron Eagle Dr., Ste. 200
Eagle ID 83616

Private Counsel: Mailed ☒ Hand Delivered _____ Signature _____
Clerk cm Date 5-22-14 Phone () _____

Prosecutor: Interdepartmental Mail ☒ Ada ☐ Boise ☐ Eagle ☐ G.C. ☐ Meridian
Clerk cm Date 5-22-14

Public Defender: Interdepartmental Mail _____
Clerk _____ Date _____

Other: _____
Mailed _____ Hand Delivered _____
Clerk _____ Date _____

Signature [Signature]
Phone () 9-21-14

Dated: 5/21/2014

CHRISTOPHER D. RICH
Clerk of the Court

By: [Signature]
Deputy Clerk

Cite Pay Website: <https://www.citepayusa.com/payments> Supreme Court Repository: <https://www.idcourts.us>

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA.

THE STATE OF IDAHO,
Plaintiff,

vs.

HERREMAN-GARCIA ANA GISELLE
Defendant

NO. _____
A.M. 9- FILED P.M. _____
NOTICE OF COURT DATE
AND **MAY 22 2014**
BOND RECEIPT
CHRISTOPHER D. RICH, Clerk
By MARSHA ROBINSON
DEPUTY

YOU ARE HEREBY NOTIFIED that you must appear in Court
on **10 June 2014 at 08:30AM hrs, at the:**

Ada County Courthouse
200 West Front Street
Boise, 83702

If you have been arrested for a Citation, This Notice of Court Date Supersedes any other Court Date for this case. If you have been given a date by the court you must keep those appearances, failing to do so will cause a warrant for arrest and forfeiture of bond.

You are further notified that if you fail to appear as specified herein, your bond will be forfeited and a Warrant of Arrest will be issued against you.

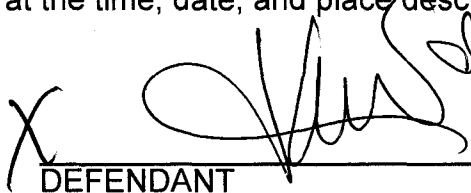
If you are on supervised probation, you must notify your probation officer of your arrest within 24 hours or one business day.

BOND RECEIPT No: 1142954

Charge: Arrest: {F} Grand Theft
Bond Amount: \$ 7,500.00
Case # CRFE20140005550
Bond # S11 02222501
Bond Type: Surety
Warrant #:
Agency: Credit Bail Bonds
Insurance: Seneca Insurance Company, Inc.
Bondsman: CREDIT BAIL BONDS
Address: 410 S. Orchard St. #180
Boise, ID 83705

~ This is to certify that I have received a copy of this NOTICE TO APPEAR.
I understand that I am being released on the conditions of posting bail and
my promise to appear in the court at the time, date, and place described in this notice.

DATED: 5/21/2014

X 
DEFENDANT

JUN 04 2014

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Edwina Wager
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700
Fax: (208) 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
ANA GISELLE HERREMAN GARCIA,)
)
Defendant.)
_____)

Case No. CR-FE-2014-0005550

REQUEST FOR DISCOVERY

TO THE ABOVE NAMED DEFENDANT:

PLEASE TAKE NOTICE that the undersigned, pursuant to Rule 16 of the Idaho Criminal Rules, requests Discovery and inspection of the following:

(1) Documents and Tangible Objects:

Request is hereby made by the prosecution to inspect and copy or photograph books, papers, documents, photographs, tangible objects or copies or portions thereof, which are within the possession, custody or control of the defendant, and which the defendant intends to introduce in evidence at trial.

MO

(2) Reports of Examinations and Tests:

The prosecution hereby requests the defendant to permit the State to inspect and copy or photograph any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this case, or copies thereof, within the possession or control of the defendant, which the defendant intends to introduce in evidence at the trial, or which were prepared by a witness whom the defendant intends to call at the trial when the results or reports relate to testimony of the witness.

(3) Defense Witnesses:

The prosecution requests the defendant to furnish the State with a list of names and addresses of witnesses the defendant intends to call at trial.

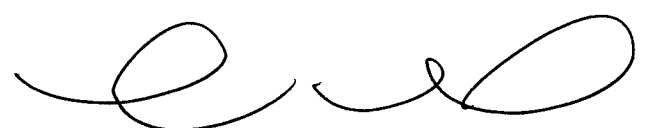
(4) Expert Witnesses:

The prosecution requests the defendant to provide a written summary or report of any testimony that the defense intends to introduce pursuant to Idaho Criminal Rule 16(c)(4), including the facts and data supporting the opinion and the witness's qualifications.

(5) Pursuant to Idaho Code Section 19-519, the State hereby requests that the defendant state in writing within ten (10) days any specific place or places at which the defendant claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom he intends to rely to establish such alibi.

DATED this 3rd day of June 2014.

GREG H. BOWER
Ada County Prosecuting Attorney



Edwina Wager
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of June 2014, I caused to be served, a true and correct copy of the foregoing Request for Discovery upon the individual(s) named below in the manner noted:

Aaron J. Tribble, Attorney at Law, 1191 E. Iron Eagle Drive #200, Eagle 246-8850

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By hand delivering copies of the same to defense counsel.
- ☒ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: _____

Marris

253
PH
6/10
8:30

NO. 10 FILED
A.M. 10 P.M.

JUN 04 2014

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Edwina Wager
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702-5954
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
	)	Case No. CR-FE-2014-0005550
Plaintiff,)	
vs.	)	PRELIMINARY HEARING
	)	RESPONSE TO REQUEST FOR
ANA GISELLE HERREMAN GARCIA,	)	DISCOVERY AND OBJECTIONS
)	
Defendant.)	
_____)	

COMES NOW, Edwina Wager, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and submits the following Preliminary Hearing Response to the Request for Discovery and Objections and informs the Court that the State has complied with the Defendant's Request for Discovery as outlined below.

I. DISCLOSURES

16-A Brady-Agurs Disclosure: The prosecution is unaware of any evidence that is exculpatory on its face relating to the offense charged.

With regard to evidence that may be exculpatory as used or interpreted, the prosecution requests that the defense counsel submit, in writing, the defense to be asserted in this case so the prosecution can review its file to determine if any facts, evidence or witnesses may be material to the preparation of that defense. In the alternative, the prosecution offers to defense counsel an open

**PRELIMINARY HEARING RESPONSE TO REQUEST FOR DISCOVERY AND
OBJECTIONS (HERREMAN GARCIA), Page 1**

000026

MD

file policy to review those documents in the control and possession of the prosecution that may be exculpatory in some manner to the offense charged.

16-B Stipulation - Request Disclosure:

1. Statement of Defendant: The State has complied with discovery by providing the known statements of the Defendant that are contained in documents and items the State currently has in its possession and will comply with discovery as more information becomes available, as follows:

- a. Audio Taped Confession/Statement, if any exists
- b. Video Taped Confession/Statement, if any exists
- c. Written Confession/Statement, if any exists
- d. As reflected in Police Reports
- e. As reflected in booking sheets

Be advised: As you are aware, the Ada County Jail video records inmate video conversations your client has with individuals other than your client's lawyer while incarcerated at the Ada County Jail. The visual or the images of the recorded calls are kept for only 30 days of the date of the conversation, although the audio portion of the video recordings are maintained indefinitely. Please contact the handling prosecuting attorney to make an appointment to view those video calls should you desire to do so before they drop off the system.

2. Statement of Co-Defendant: See disclosed police reports for statements of Co-Defendant, if any exists.

3. Defendant's Prior Record: The Defendant's prior record disclosed in the following:

- a. NCIC report

4A. Documents and Tangible Objects: Police Reports, Witness Statements, Medical records and/or other tangible documents in possession of the Ada County Prosecutor's Office as of the date of filing of this document disclosed as State's pages 1 through 199. Pursuant to I.C.R. 16(d), the State has provided an unredacted discovery packet for defense counsel and a redacted packet of discovery for the defendant. The unredacted packet of discovery is not to be disclosed to the defendant or to the defendant's family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need.

i. Audio/video recordings: The State will provide audio and/or video recordings when they are received, if any exists, in this case. The State will provide unredacted audio and/or video to defense counsel marked "Confidential," which are not to be shared with the defendant or

the defendant's family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need. At the preliminary hearing level, upon request, the State will provide redacted audio/video to defense counsel so that redacted audio/video may be shared with the defendant.

Be advised: As you are aware, the Ada County Jail video records inmate video conversations your client has with individuals other than your client's lawyer while incarcerated at the Ada County Jail. The visual or the images of the recorded calls are kept for only 30 days of the date of the conversation, although the audio portion of the video recordings are maintained indefinitely. Please contact the handling prosecuting attorney to make an appointment to view those video calls should you desire to do so before they drop off the system.

B. Photographs: The State will comply with such request as it receives photographs, maps, charts or diagrams, if any exist, in this case.

5. Reports of Examinations and Tests:

☒ The State will comply with such request as it receives reports of examinations and tests, if any exist, in this case.

☐ These documents are specifically identified in subsection 4A above.

6. Witnesses: A list of names identifying witnesses and protected contact information has been provided to defense counsel in a letter under separate cover, which is not to be disclosed to the defendant or to the defendant's family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need. The State has provided to defense counsel a separate redacted witness list excluding protected information that can be shared with the defendant.

7. Expert Witnesses: The State will comply with such request as it identifies expert witnesses, if any exist, in this case.

☒ The State will comply with such request as it receives reports of examinations and tests, if any exist, in this case.

☐ These witnesses have been identified in a letter to defense counsel as described above in subparagraph 6 above.

8. Police Reports: The State possesses police reports, witness statements and other documents which are available upon request. These documents are specifically identified in subparagraph 4(A) above.

II. OBJECTIONS

A. The State has excluded the identity of the Confidential Informant from this Discovery Response. The grounds for this objection is/are as follows. Pursuant to I.C.R. 16(g)(2) and I.R.E. 509, the identity of a Confidential Informant is excluded unless said Informant is to be produced as a witness at a hearing or trial, subject to any protective order under I.C.R. 16(l) or a disclosure order under Rule 16(b)(9).

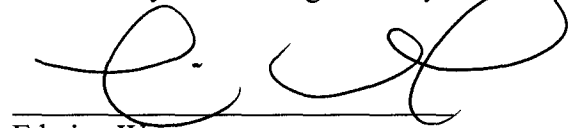
B. The State objects to any items in the defendant's request for discovery that would be in violation of state or federal law as follows and requests that if this Court rules that disclosure is required, that this Court also issue a protective order pursuant to I.C.R. 16(l):

- ☒ NCIC criminal history for all witnesses. The State is not permitted to use NCIC for this purpose pursuant to federal law and hereby objects to providing this material.
- ☒ A police officer(s)' internal affairs files and/or other personnel documents. Personnel documents are confidential matters pursuant to State law. The State hereby objects to providing this material.
- ☐ Other

RESPECTFULLY SUBMITTED this 3rd day of June 2014.

GREG H. BOWER

Ada County Prosecuting Attorney



Edwina Wager

Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 3rd day of June 2014, I caused to be served, a true and correct copy of the foregoing Preliminary Hearing Response to Request for Discovery and Objections upon the individual(s) named below in the manner noted:

Aaron J. Tribble, Attorney at Law, 1191 E. Iron Eagle Drive #200, Eagle 246-8850

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By hand delivering copies of the same to defense counsel.
- ☒ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: _____

Charris

TIME RECEIVED

June 6, 2014 1:40:54 PM MDT

REMOTE CSID
9389504

DICTION
62

PAGES
3

STATUS
Received

fw

Jun. 6. 2014 1:43PM Law Office

No. 3908 P. 1/3

NO. _____
A.M. _____ FILED P.M. *450*

JUN 06 2014

CHRISTOPHER D. RICH, Clerk
By AMY LANG
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Edwina Wager
Deputy Prosecuting Attorney
Magistrate Division, 200 W. Front Street, Room 3191
Boise, Idaho 83702 Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

ANA GISELLE HERREMAN GARCIA,

Defendant.

Case No. CR-FE-2014-0005550

STIPULATION TO RESET
PRELIMINARY HEARING

COMES NOW, Edwina Wager, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and Aaron Tribble, Attorney for the Defendant, and hereby stipulate to reset the preliminary hearing in this matter scheduled on June 10, 2014, at 8:30 a.m. The parties respectfully request that the preliminary hearing be rescheduled to July 17th, 2014 at 8:30 a.m.

*253
PH
6/10
830*

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TIME RECEIVED

June 6, 2014 1:40:54 PM MDT

REMOTE CSID

9389504

DOCUMENT

62

PAGES

3

STATUS

Received

Jun. 6. 2014 1:43PM Law Office


No. 3908 P. 2/3

DATED this 6th day of JUNE 2014.

GREG H. BOWER
Ada County Prosecutor



EDWINA WAGER
Deputy Prosecuting Attorney



AARON TRIBBLE
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 6th day of June 2014, I caused to be served a true and correct copy of the foregoing document to: Aaron Tribble, Attorney for the Defendant, 1191 E. Iron Eagle Drive, Ste. 200 Eagle, ID 83616 by the method indicated below:

☐ INTERDEPARTMENTAL MAIL
☐ U.S. MAIL (Postage Prepaid)
☒ FAX TRANSMISSION
☐ HAND DELIVERY

Marnis

JUN 12 2014

CHRISTOPHER D. RICH, Clerk
By CINDY HO
DEPUTY

RECEIVED

JUN 06 2014

Ada County Clerk

GREG H. BOWER
Ada County Prosecuting Attorney

Edwina Wager
Deputy Prosecuting Attorney
Magistrate Division, 200 W. Front Street, Room 3191
Boise, Idaho 83702 Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

ANA GISELLE HERREMAN GARCIA,

Defendant.

Case No. CR-FE-2014-0005550

ORDER TO RESET
PRELIMINARY HEARING

The above entitled matter having come before this Court and Good Cause appearing, and no objection being raised;

THEREFORE, IT IS HEREBY ORDERED that the preliminary hearing be reset to the
17th day of July, 2014, at 8:30 AM o'clock.

DATED this 9th day of June 2014.

Judge

253
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3/180

RECEIVED
JUN 17 2014
Ada County Clerk

NO. 9
AM. PM.

JUN 17 2014

CHRISTOPHER D. RICH, Clerk
BY KATHARINE HENRIKSEN
DEPUTY

JUNE 10TH, 2014

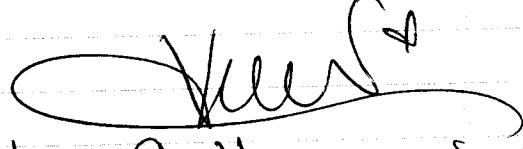
FE-14-5550

To Whom It May Concerns,

THIS LETTER IS TO INFORM THAT
I, Ann G. Herremans-Garcia will be
LEAVING THE STATE OF IDAHO TO
NORTH DAKOTA ON WEDNESDAY JUNE 17TH,
2014. AND WILL RETURN ON
WEDNESDAY JULY 16TH, 2014.

IF ANY QUESTIONS PLEASE CONTACT ME
AT THE INFORMATION BELOW.

Thank You,


Ann G. Herremans-Garcia.

PO BOX 8269
WILLISTON, ND 58802
(208) 703-0066

✓

TIME RECEIVED

July 3, 2014 8:53:33 PM MDT

REMOTE CSID

9389504

DATE

61

PAGES

8

STATUS

Received

Jul. 3. 2014 8:56PM Law Office

NO. 4076 P. 1/3
A.M. P.M.

JUL -7 2014

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

Aaron J. Tribble ISB#8951
Eagle Law Center
1191 E. Iron Eagle Dr.
Suite 200
Eagle, ID 83616
T: 208-246-8850
F: 208-938-9504
E: aaron@eaglelawcenter.com

Attorney for Defendant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,
Plaintiff,

vs.

JISELLE HERREMAN,
Defendant.

CASE NO. CR-FE-2014-0005550

**DEFENDANT'S RESPONSE TO
DISCOVERY**

TO: ADA COUNTY PROSECUTING ATTORNEY

PLEASE TAKE NOTICE that the undersigned, pursuant to Rule 16 of the Idaho Criminal
Rules, responds to discovery as follows:

1. DEFENSE WITNESSES:

- a. George Garcia, former Maintenance Crew Leader at A&A Landscaping.
C/o Eagle Law Center

1 1191 E. Iron Eagle Dr.

2 Eagle, ID 83616

3 b. Hugo Garcia, former Operations Manager at A&A Landscaping.

4 C/o Eagle Law Center

5 1191 E. Iron Eagle Dr.

6 Eagle, ID 83616

7 c. Alfredo Herreman, former employee at A&A Landscaping, currently a
8 competitor of A&A Landscaping

9 C/o Eagle Law Center

10 1191 E. Iron Eagle Dr.

11 Eagle, ID 83616

12
13 DATED this 3rd day of July, 2014.

14
15 

16 Aaron J. Tribble

17 *Attorney for Defendant*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of July, 2014, I caused a true and correct copy of the foregoing document to be served by the method indicated below, and addressed to the following:

Ada County Prosecutor's Office
200 W. Front Street Room 3191
Boise, ID 83702
Fax: 208-287-7709

☐ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☒ Facsimile



Aaron J. Tribble

Attorney for Defendant

283
PA
HJB

NO. 10 FILED
A.M. 10 P.M.

JUL 17 2014

GREG H. BOWER
Ada County Prosecuting Attorney

CHRISTOPHER D. RICH, Clerk
By SHERRI BOUCHER
DEPUTY

Edwina Wager
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702-5954
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2014-0005550
vs.)	
	)	FIRST SUPPLEMENTAL
	)	PRELIMINARY HEARING
ANA GISELLE HERREMAN GARCIA,	)	RESPONSE TO REQUEST FOR
	)	DISCOVERY AND OBJECTIONS
Defendant.)	
_____)	

COMES NOW, Edwina Wager, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and submits the following Preliminary Hearing Response to the Request for Discovery and Objections and informs the Court that the State has complied with the Defendant's Request for Discovery as outlined below.

I. DISCLOSURES

16-A Brady-Agurs Disclosure: The prosecution is unaware of any evidence that is exculpatory on its face relating to the offense charged.

With regard to evidence that may be exculpatory as used or interpreted, the prosecution requests that the defense counsel submit, in writing, the defense to be asserted in this case so the prosecution can review its file to determine if any facts, evidence or witnesses may be material to the preparation of that defense. In the alternative, the prosecution offers to defense counsel an open

file policy to review those documents in the control and possession of the prosecution that may be exculpatory in some manner to the offense charged.

16-B Stipulation - Request Disclosure:

1. Statement of Defendant: The State has complied with discovery by providing the known statements of the Defendant that are contained in documents and items the State currently has in its possession and will comply with discovery as more information becomes available, as follows:

- a. Audio Taped Confession/Statement, if any exists
- b. Video Taped Confession/Statement, if any exists
- c. Written Confession/Statement, if any exists
- d. As reflected in Police Reports
- e. As reflected in booking sheets

Be advised: As you are aware, the Ada County Jail video records inmate video conversations your client has with individuals other than your client's lawyer while incarcerated at the Ada County Jail. The visual or the images of the recorded calls are kept for only 30 days of the date of the conversation, although the audio portion of the video recordings are maintained indefinitely. Please contact the handling prosecuting attorney to make an appointment to view those video calls should you desire to do so before they drop off the system.

2. Statement of Co-Defendant: See disclosed police reports for statements of Co-Defendant, if any exists.

3. Defendant's Prior Record: The Defendant's prior record disclosed in the following:

- a. NCIC report

4A. Documents and Tangible Objects: Police Reports, Witness Statements, Medical records and/or other tangible documents in possession of the Ada County Prosecutor's Office as of the date of filing of this document disclosed as State's pages 200 through 299. Pursuant to I.C.R. 16(d), the State has provided an unredacted discovery packet for defense counsel and a redacted packet of discovery for the defendant. The unredacted packet of discovery is not to be disclosed to the defendant or to the defendant's family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need.

i. Audio/video recordings: The State will provide audio and/or video recordings when they are received, if any exists, in this case. The State will provide unredacted audio and/or video to defense counsel marked "Confidential," which are not to be shared with the defendant or

the defendant's family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need. At the preliminary hearing level, upon request, the State will provide redacted audio/video to defense counsel so that redacted audio/video may be shared with the defendant.

Be advised: As you are aware, the Ada County Jail video records inmate video conversations your client has with individuals other than your client's lawyer while incarcerated at the Ada County Jail. The visual or the images of the recorded calls are kept for only 30 days of the date of the conversation, although the audio portion of the video recordings are maintained indefinitely. Please contact the handling prosecuting attorney to make an appointment to view those video calls should you desire to do so before they drop off the system.

B. Photographs: The State will comply with such request as it receives photographs, maps, charts or diagrams, if any exist, in this case.

5. Reports of Examinations and Tests:

☒ The State will comply with such request as it receives reports of examinations and tests, if any exist, in this case.

☐ These documents are specifically identified in subsection 4A above.

6. Witnesses: A list of names identifying witnesses and protected contact information has been provided to defense counsel in a letter under separate cover, which is not to be disclosed to the defendant or to the defendant's family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need. The State has provided to defense counsel a separate redacted witness list excluding protected information that can be shared with the defendant.

7. Expert Witnesses: The State will comply with such request as it identifies expert witnesses, if any exist, in this case.

☐ The State will comply with such request as it receives reports of examinations and tests, if any exist, in this case.

☐ These witnesses have been identified in a letter to defense counsel as described above in subparagraph 6 above.

8. Police Reports: The State possesses police reports, witness statements and other documents which are available upon request. These documents are specifically identified in subparagraph 4(A) above.

II. OBJECTIONS

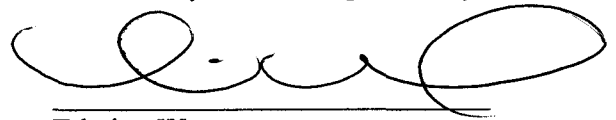
A. The State has excluded the identity of the Confidential Informant from this Discovery Response. The grounds for this objection is/are as follows. Pursuant to I.C.R. 16(g)(2) and I.R.E. 509, the identity of a Confidential Informant is excluded unless said Informant is to be produced as a witness at a hearing or trial, subject to any protective order under I.C.R. 16(l) or a disclosure order under Rule 16(b)(9).

B. The State objects to any items in the defendant's request for discovery that would be in violation of state or federal law as follows and requests that if this Court rules that disclosure is required, that this Court also issue a protective order pursuant to I.C.R. 16(l):

- ☒ NCIC criminal history for all witnesses. The State is not permitted to use NCIC for this purpose pursuant to federal law and hereby objects to providing this material.
- ☒ A police officer(s)' internal affairs files and/or other personnel documents. Personnel documents are confidential matters pursuant to State law. The State hereby objects to providing this material.
- ☐ Other

RESPECTFULLY SUBMITTED this 16th day of July 2014.

GREG H. BOWER
Ada County Prosecuting Attorney



Edwina Wager
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17 day of July 2014, I caused to be served, a true and correct copy of the foregoing Preliminary Hearing Response to Request for Discovery and Objections upon the individual(s) named below in the manner noted:

Aaron J. Tribble, Attorney at Law, 1191 E. Iron Eagle Drive #200, Eagle 246-8850

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☒ By hand delivering copies of the same to defense counsel.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: _____

_____

Time	Speaker	Note
<u>1:45:54 PM</u>	.	
<u>1:45:59 PM</u>	Case Called	Anna Herreman -Garcia FE-14-05550 On Bond for Prelim Hearing
<u>1:46:10 PM</u>	States Attorney	Edwina Wager
<u>1:46:14 PM</u>	Defense Attorney	Aaron Tribble
<u>1:46:16 PM</u>	States Attorney	Motion to file Amended Complaint
<u>1:46:42 PM</u>	Defense Attorney	Waives Reading
<u>1:46:45 PM</u>	Judge	Accepts and Files Amended Complaint
<u>1:46:59 PM</u>	States Attorney	Calls SW # 1 Martina Garcia Caro/Sworn
<u>1:47:47 PM</u>	States Attorney	DX SW # 1
<u>1:49:47 PM</u>	Defense Attorney	Objection/Leading
<u>1:49:56 PM</u>	States Attorney	Response
<u>1:50:05 PM</u>	Judge	Overruled
<u>2:00:34 PM</u>	Defense Attorney	Objection/Hearsay answer
<u>2:00:41 PM</u>	States Attorney	Response
<u>2:00:44 PM</u>	Defense Attorney	Response
<u>2:01:12 PM</u>	Judge	Reserves Ruling
<u>2:01:31 PM</u>	States Attorney	Moves to mark SE #3
<u>2:05:15 PM</u>	States Attorney	Response to Defense's Objection
<u>2:06:12 PM</u>	Judge	Overruled
<u>2:07:08 PM</u>	States Attorney	Moves to mark SE #1
<u>2:14:24 PM</u>	Defense Attorney	Objection
<u>2:14:28 PM</u>	Judge	Sustain
<u>2:15:01 PM</u>	States Attorney	Moves to Admit SE # 1
<u>2:15:06 PM</u>	Defense Attorney	No Objection
<u>2:15:07 PM</u>	Judge	So orders SE # 1 Admitted
<u>2:16:22 PM</u>	States Attorney	Moves to Mark SE # 2

<u>2:19:09 PM</u>	States Attorney	Moves to Admit SE # 2
<u>2:19:17 PM</u>	Defense Attorney	No Objection
<u>2:19:18 PM</u>	Judge	So orders SE #2 Admitted
<u>2:24:19 PM</u>	Defense Attorney	Objection
<u>2:24:35 PM</u>	States Attorney	Response will rephrase
<u>2:24:39 PM</u>	Judge	Sustain
<u>2:26:47 PM</u>	Defense Attorney	Objection
<u>2:26:56 PM</u>	States Attorney	Response
<u>2:27:19 PM</u>	Judge	Overruled
<u>2:28:24 PM</u>	Defense Attorney	Objection/Hearsay
<u>2:28:33 PM</u>	Defense Attorney	withdraw objection
<u>2:29:51 PM</u>	Defense Attorney	Objection Rule 408
<u>2:30:15 PM</u>	States Attorney	Response
<u>2:30:53 PM</u>	Judge	Overruled
<u>2:33:17 PM</u>	Defense Attorney	Objection
<u>2:33:22 PM</u>	States Attorney	Sustain
<u>2:33:43 PM</u>	Judge	Overruled
<u>2:35:51 PM</u>	Defense Attorney	CX SW # 1
<u>2:51:24 PM</u>	Defense Attorney	Moves to Strike SW #1 Testimony
<u>3:09:06 PM</u>	Defense Attorney	Continue CX SW # 1
<u>3:13:06 PM</u>	States Attorney	Objection
<u>3:13:52 PM</u>	Defense Attorney	Response
<u>3:13:54 PM</u>	Judge	Sustain
<u>3:17:10 PM</u>	States Attorney	Objection
<u>3:17:12 PM</u>	Judge	Sustain
<u>3:17:23 PM</u>	States Attorney	Objection
<u>3:17:25 PM</u>	Judge	Sustain

<u>3:19:01 PM</u>	States Attorney	Objection/Relevance
<u>3:19:05 PM</u>	Judge	Sustain
<u>3:21:16 PM</u>	States Attorney	Objection/Relevance
<u>3:21:27 PM</u>	Defense Attorney	Response
<u>3:21:34 PM</u>	Judge	Sustain
<u>3:24:49 PM</u>	States Attorney	Objection/Relevance
<u>3:25:11 PM</u>	Judge	Sustain
<u>3:31:49 PM</u>	States Attorney	Objection
<u>3:32:25 PM</u>	Judge	Overruled
<u>3:36:34 PM</u>	Defense Attorney	Motion to Mark DE #a
<u>3:41:05 PM</u>	Defense Attorney	Move to Admit DE #a
<u>3:41:11 PM</u>	States Attorney	Response
<u>3:41:17 PM</u>	Judge	Sustain/Foundation
<u>3:42:23 PM</u>	States Attorney	Response
<u>3:43:29 PM</u>	Judge	Sustain
<u>3:46:17 PM</u>	States Attorney	Objection/Relevance
<u>3:46:30 PM</u>	Judge	Sustain
<u>3:47:23 PM</u>	Judge	Nothing further witness steps down/excused
<u>3:47:32 PM</u>	States Attorney	Moves to Admit SE #3
<u>3:48:09 PM</u>	Defense Attorney	No Objection
<u>3:48:29 PM</u>	Judge	So orders SE #3 Admitted
<u>3:49:28 PM</u>	States Attorney	Rest
<u>3:49:31 PM</u>	Defense Attorney	Calls DW # 1 Alfredo Herriman /Sworn
<u>3:51:11 PM</u>	Defense Attorney	DX DW # 1
<u>3:51:59 PM</u>	States Attorney	voir dire in aid of objection
<u>3:53:08 PM</u>	Judge	Overruled
<u>3:55:22 PM</u>	States Attorney	Objection/Relevance
<u>3:55:27 PM</u>	Defense Attorney	Response
<u>3:56:08 PM</u>	Judge	Sustain

<u>3:57:25 PM</u>	States Attorney	Objection
<u>3:57:31 PM</u>	Judge	Sustain
<u>3:57:47 PM</u>	States Attorney	Objection/Hearsay
<u>3:57:48 PM</u>	Judge	Sustain
<u>3:58:18 PM</u>	States Attorney	Objection/Relevance
<u>3:58:41 PM</u>	Judge	Sustain on Hearsay
<u>4:00:03 PM</u>	States Attorney	No CX
<u>4:00:04 PM</u>	Judge	Nothing further witness steps down/excused
<u>4:00:23 PM</u>	Defense Attorney	Rest
<u>4:00:27 PM</u>	States Attorney	Submit closing argument on evidence presented/reserve rebuttal
<u>4:00:31 PM</u>	Defense Attorney	Closing
<u>4:08:42 PM</u>	States Attorney	Question
<u>4:13:50 PM</u>	States Attorney	Closing Argument
<u>4:15:29 PM</u>	Judge	CT finds State has proved there is enough evidence on Count #1 & #2 to provide probable cause to bind case over to District Court with Judge Bail on 7/28/2014 @ pm for AR and further proceedings
<u>4:18:34 PM</u>	Judge	Does not find PC on Count #3 and Dismisses on face of complaint
<u>4:21:55 PM</u>	States Attorney	Signs for exhibits
<u>4:22:27 PM</u>	Defense Attorney	No Objection to return of Exhibits
<u>4:22:39 PM</u>		End of Case
<u>4:22:39 PM</u>		
<u>4:22:39 PM</u>		

JUL 17 2014

CHRISTOPHER D. RICH, Clerk
By CINDY HO
DEPUTY

DR # 13-321008

GREG H. BOWER
Ada County Prosecuting Attorney

Edwina Wager
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)

Plaintiff,)

vs.)

ANA GISELLE HERREMAN GARCIA,)

Defendant.)

Case No. CR-FE-2014-0005550

**A M E N D E D
C O M P L A I N T**

Herreman's [REDACTED]
Herreman's [REDACTED]

PERSONALLY APPEARED Before me this 17th day of July 2014, Edwina Wager, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, who, being first duly sworn, complains and says: that ANA GISELLE HERREMAN GARCIA, on or between the 9th day of March, 2009 and the 31st day of October, 2011, in the County of Ada, State of Idaho, did commit the crimes of I. GRAND THEFT, FELONY, I.C. §18-2403(1), 2407(1)(b), 2409, II. FORGERY, FELONY, I.C. §18-3601, and III. CRIMINAL POSSESSION OF A FINANCIAL TRANSACTION CARD, FELONY, I.C. §18-3125, 3128 as follows:

COUNT I

That the Defendant, ANA GISELLE HERREMAN GARCIA, on or between the 9th day of March, 2009 and the 31st day of October, 2011, in the County of Ada, State of Idaho, did wrongfully take cash of a value in excess of One Thousand Dollars (\$1,000.00) lawful money of the United States from the owner, A&A Landscape, with the intent to appropriate to herself certain property of another.

COUNT II

That the Defendant, ANA GISELLE HERREMAN GARCIA, on or between the 8th day of August, 2010 and the 3rd day of November, 2010, in the County of Ada, State of Idaho, did, falsely and with the intent to defraud another, forge a certain written instrument, to wit: check #5008 on the account of Mukesh Mittal and Manisha Mittal payable to A & A Landscape LLC in the amount of \$652.01, and/or check #581 on the account of Terra Nativa Homeowners Association payable to A & A Landscape in the amount of \$1,375.00, by adding Ana Garcia to the 'Pay to the Order of' section of the check.

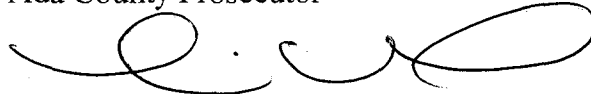
COUNT III

That the Defendant, ANA GISELLE HERREMAN GARCIA, on or between the 1st day of June, 2011 and the 31st day of October, 2011, did with the intent to defraud, knowingly obtain and/or purchase goods and/or services by the use of a fraudulently obtained financial transaction card and/or financial transaction card number.

All of which is contrary to the form, force and effect of the statute in such case and against the peace and dignity of the State of Idaho.

GREG H. BOWER

Ada County Prosecutor



Edwina Wager

Deputy Prosecuting Attorney

SUBSCRIBED AND Sworn to before me this 17th day of July 2014.



Magistrate

JUL 17 2014

CHRISTOPHER D. RICH, Clerk
By CINDY HO
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Edwina Wager
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2014-0005550
)	
vs.	)	COMMITMENT
)	
ANA GISELLE HERREMAN GARCIA,	)	Defendant's [REDACTED]
	)	Defendant's [REDACTED]
Defendant.)	
_____)	

THE ABOVE NAMED DEFENDANT, ANA GISELLE HERREMAN GARCIA,
having been brought before this Court for a Preliminary Examination on the ____ day of _____, 2014, on a charge that the Defendant on or between the 9th day of March, 2009 and the 31st day of October, 2011, in the County of Ada, State of Idaho, did commit the crime(s) of: I. GRAND THEFT, FELONY, I.C. §18-2403(1), 2407(1)(b), 2409, II. FORGERY, FELONY, I.C. §18-3601, and III. CRIMINAL POSSESSION OF A FINANCIAL TRANSACTION CARD, FELONY, I.C. §18-3125, 3128 as follows:

COUNT I

That the Defendant, ANA GISELLE HERREMAN GARCIA, on or between the 9th day of March, 2009 and the 31st day of October, 2011, in the County of Ada, State of Idaho, did wrongfully take cash of a value in excess of One Thousand Dollars (\$1,000.00) lawful money of the United States from the owner, A&A Landscape, with the intent to appropriate to herself certain property of another.

COUNT II

That the Defendant, ANA GISELLE HERREMAN GARCIA, on or between the 8th day of August, 2010 and the 3rd day of November, 2010, in the County of Ada, State of Idaho, did, falsely and with the intent to defraud another, forge a certain written instrument, to wit: check #5008 on the account of Mukesh Mittal and Manisha Mittal payable to A & A Landscape LLC in the amount of \$652.01, and/or check #581 on the account of Terra Nativa Homeowners Association payable to A & A Landscape in the amount of \$1,375.00, by adding Ana Garcia to the 'Pay to the Order of' section of the check.

COUNT III

That the Defendant, ANA GISELLE HERREMAN GARCIA, on or between the 1st day of June, 2011 and the 31st day of October, 2011, did with the intent to defraud, knowingly obtain and/or purchase goods and/or services by the use of a fraudulently obtained financial transaction card and/or financial transaction card number.

The Defendant having so appeared and having had/having waived preliminary examination, the Court sitting as a Committing Magistrate finds that the offense charged as set forth has been committed in Ada County, Idaho, and that there is sufficient cause to believe that the Defendant is guilty of committing the offense as charged.

WHEREFORE, IT IS ORDERED that the Defendant be held to answer to the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, to the charge herein set forth. Bail is set in the sum of \$ 7,500 -.

DATED this 17th day of July, 2014.


MAGISTRATE

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

FILED 7/17/14 AT 4:30p M.
CHRISTOPHER D. RICH,
CLERK OF THE DISTRICT COURT
BY CHD
Deputy

STATE OF IDAHO,

Plaintiff,

vs.
Ann Herremen-Garcia
Defendant.

PRELIMINARY HEARING NOTICE / MINUTE SHEET

Case Number: FE-14-05550
Case Called: Gardunia 14559
☒ Ada ☐ Special E. Wager
PD / ☒ Private A. Tribble

Defendant: ☒ Present ☐ Not Present ☐ In Custody ☐ PD Appointed ☐ Waived Attorney

☐ Advised of Rights ☐ Waived Rights ☐ In Chambers ☐ Interpreter

☒ Bond \$ 7,500⁰⁰ ☐ Pre-Trial Release Order ☐ Motion for Bond Reduction Denied / Granted

☒ Amended Complaint Filed ☐ Complaint Amended by Interlineation ☒ Reading of Complaint Waived

☐ State / Defense / Mutual Request for Continuance

☐ State / Defense Objection / No Objection to Continuance

☐ Case continued to at am/pm for

☐ Defendant Waives Preliminary Hearing ☒ Hearing Held ☒ Commitment Signed

☒ Case Bound Over to Judge Bail on 7-28-14 at 1:30 am/pm

☐ Case Dismissed after Preliminary Hearing / On State's Motion ☐ Release Defendant, This Case Only

Dismiss Count #3 / No PC

ADA COUNTY COURTHOUSE, 200 W. FRONT STREET, BOISE, ID 83702

You must appear as scheduled above. Failure to do so will result in a warrant being issued for your arrest.

I hereby certify that copies of this notice were served as follows:

Defendant: ☒ Hand Delivered ☐ Via Counsel

Signature [Signature]

Defense Atty: ☐ Hand Delivered ☐ Intdept Mail

Prosecutor: ☒ Hand Delivered ☐ Intdept Mail

By: CHD
Deputy Clerk

DATED 7/17/14

147
7/22/14
100

NO. 10
FILED
A.M. _____ P.M. _____

JUL 21 2014

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2014-0005550
)	
vs.	)	INFORMATION
)	
ANA GISELLE HERREMAN GARCIA,	)	Defendant's [REDACTED]
	)	Defendant's [REDACTED]
Defendant.)	
_____)	

GREG H. BOWER, Prosecuting Attorney, in and for the County of Ada, State of Idaho, who in the name and by the authority of the State, prosecutes in its behalf, comes now into District Court of the County of Ada, and states that ANA GISELLE HERREMAN GARCIA is accused by this Information of the crime(s) of: I. GRAND THEFT, FELONY, I.C. §18-2403(1), 2407(1)(b), 2409, II. FORGERY, FELONY, I.C. §18-3601, and ~~III. CRIMINAL POSSESSION OF A FINANCIAL TRANSACTION CARD, FELONY, I.C. §18-3125, 3128~~ which crime(s) was/were committed as follows:


COUNT I

That the Defendant, ANA GISELLE HERREMAN GARCIA, on or between the 9th day of March, 2009 and the 31st day of October, 2011, in the County of Ada, State of Idaho, did wrongfully take cash of a value in excess of One Thousand Dollars (\$1,000.00) lawful money of the United States from the owner, A&A Landscape, with the intent to appropriate to herself certain property of another.

COUNT II

That the Defendant, ANA GISELLE HERREMAN GARCIA, on or between the 8th day of August, 2010 and the 3rd day of November, 2010, in the County of Ada, State of Idaho, did, falsely and with the intent to defraud another, forge a certain written instrument, to wit: check #5008 on the account of Mukesh Mittal and Manisha Mittal payable to A & A Landscape LLC in the amount of \$652.01, and/or check #581 on the account of Terra Nativa Homeowners Association payable to A & A Landscape in the amount of \$1,375.00, by adding Ana Garcia to the 'Pay to the Order of' section of the check.

All of which is contrary to the form, force and effect of the statute in such case and against the peace and dignity of the State of Idaho.



GREG H. BOWER
Ada County Prosecuting Attorney

Ada County Mugshot - Prosecutor's Office



User: PRHARRSK

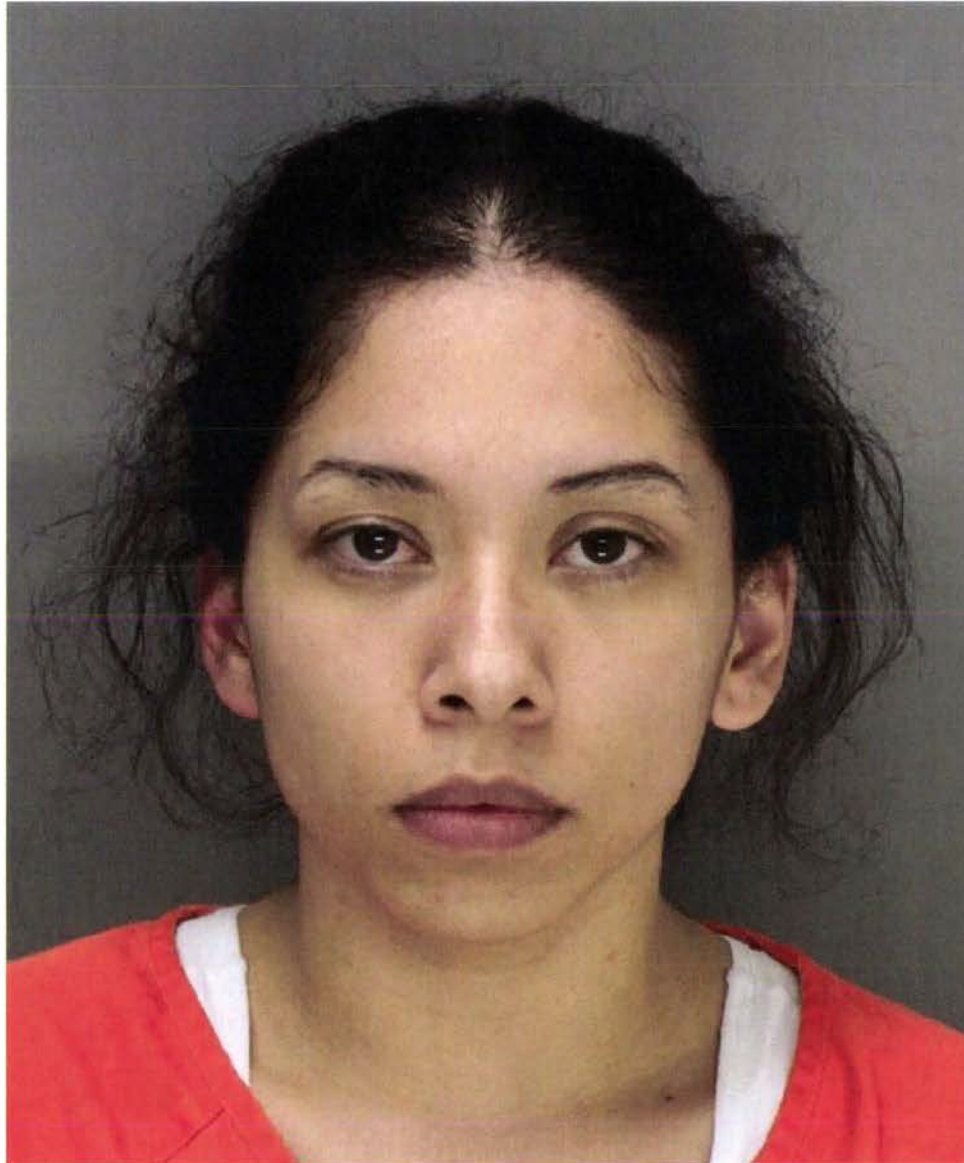


Photo Taken: 2014-05-20 18:11:48

Name: HERREMAN-GARCIA, ANA GISELLE

Case #: CR-FE-2014-0005550

LE Number: 1032161

Height: 511

Weight: 120

Drivers License Number:

Drivers License State:

Sex: F Race: W Eye Color: BRO Hair Color: BLK Facial Hair:

Marks: BACK

Scars:

Tattoos:

000054

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>02:33:52 PM</u>		CRFE14-5550 St v Ana Herreman-Garcia Arraignment
<u>02:33:58 PM</u>		Defendant present on bond and Defendant was late
<u>02:34:01 PM</u>	State Attorney	Kai Wittwer
<u>02:34:02 PM</u>	Personal Attorney	Aaron Tribble
<u>02:34:04 PM</u>		True Name. Copy of Information. Waives Reading.
<u>02:34:42 PM</u>	Judge	The Information was corrected by interlineation
<u>02:35:01 PM</u>	Personal Attorney	defendant pleads Not Guilty
<u>02:35:30 PM</u>	Judge	Sets this case for Jury Trial - October 21 @ 9:30 am, PTC - October 6 @ 9:30 am, Discovery - September 2

FILED Monday, July 28, 2014 at 03:35 PM
CHRISTOPHER D. RICH, CLERK OF THE COURT
BY: Jana Vido
Deputy Clerk

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

DEBORAH A. BAIL
DISTRICT JUDGE

July 28, 2014

THE STATE OF IDAHO,
Plaintiff,

vs.

ANA GISELLE HERREMAN-GARCIA,
Defendant.

Case No. CR-FE-2014-0005550

NOTICE OF TRIAL SETTING

THIS IS YOUR NOTICE OF TRIAL SETTING

The above-entitled matter has been set for trial before the Court and a jury for:

Pretrial Conference.....Monday, October 06, 2014 @ 9:30 AM

Jury Trial.....Tuesday, October 21, 2014 @ 9:30 AM

- ▶ All requested jury instructions must be submitted to the court five (5) days prior to trial.
- ▶ Any motion to exclude a witness who was a victim of the alleged crime must be made two (2) weeks prior to trial.
- ▶ Discovery compliance date is set for **September 2, 2014**.
- ▶ Notice is hereby given, pursuant to I.C.R. 25(a)(6) that an alternate judge may be assigned to preside over the trial of this case. The following is a list of potential alternate judges:

Hon. G. D. Carey
Hon. Dennis Goff
Hon. Renae Hoff
Hon. Daniel C. Hurlbutt, Jr.
Hon. James Judd
Hon. D. Duff McKee
Hon. James Morfitt

Justice Gerald Schroeder
Hon. Kathryn Sticklen
Hon. Linda Trout (mediations only, limited)
Hon. Darla Williamson
Hon. Ronald Wilper
Hon. William Woodland
All Sitting Fourth District Judges

Unless a party has previously exercised their right to disqualification without cause under Rule 25(a)(1), each party shall have the right to file one (1) motion for disqualification without cause as to any alternate judge not later than fourteen (14) days after service of this written notice listing the alternate judge.

Copies to Counsel:

ADA COUNTY PROSECUTORS OFFICE

AARON TRIBBLE
ATTORNEY AT LAW
1191 E IRON EAGLE DR STE 200
EAGLE ID 83616

000056

AUG 14 2014

GREG H. BOWER

Kai E. Wittwer

Deputy Prosecuting Attorney

200 W. Front Street, Room 3191

Boise, Idaho 83702

Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

VS.

ANA GISELLE HERREMAN GARCIA,

Defendant.

Case No. CR-FE-2014-0005550

DISCOVERY RESPONSE TO COURT

COMES NOW, Kai E. Wittwer, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and informs the Court that the State has complied with the Defendant's Request for Discovery.

RESPECTFULLY SUBMITTED this 13 day of August, 2014.

GREG H. BOWER

Ada County Prosecuting Attorney

Kai E. Wittwer

Deputy Prosecuting Attorney

Handwritten initials and date: 11/16/14

NO. _____
A.M. _____ FILED P.M. 2

AUG 29 2014

CHRISTOPHER D. RICH, Clerk
By SHERRI BOUCHER
DEPUTY

GREG H. BOWER

Ada County Prosecuting Attorney

Kai E. Wittwer

Deputy Prosecuting Attorney

200 West Front Street, Room 3191

Boise, Idaho 83702

Phone: (208) 287-7700

Fax: (208) 287-7707

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)

Plaintiff,)

vs.)

ANA GISELLE HERREMAN-GARCIA,)

Defendant.)

Case No. CR-FE-2014-0005550

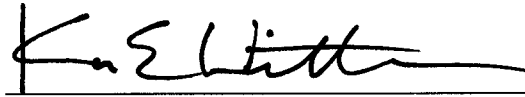
**MOTION TO EXTEND
DISCOVERY DEADLINE**

COMES NOW, Kai E. Wittwer, Deputy Prosecuting Attorney for the County of Ada, State of Idaho, moves this Court to extend the discovery deadline previously set by the Court for September 2, 2014. This case involves a significant amount of documentary and other evidence, including numerous bank and other records. The State needs additional time to subpoena and/or otherwise obtain, review and disclose such records and other evidence in order to properly prepare the case for trial.

Therefore, the State at this time requests that the Court extend the discovery deadline in this case to September 30, 2014.

RESPECTFULLY SUBMITTED this 29th day of August, 2014.

GREG H. BOWER
Ada County Prosecuting Attorney

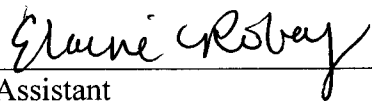


By: Kai E. Wittwer
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of August, 2014, a true and correct copy of the foregoing MOTION TO EXTEND DISCOVERY DEADLINE was served to: AARON TRIBBLE, Attorney at Law, 1191 E. Iron Eagle Dr., Ste. 200, Eagle ID 83616, in the manner noted:

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: 938 9504


Legal Assistant

147
PTC
10/6
9:30

NO. _____
A.M. _____ P.M. _____
FILED
AUG 29 2014
CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Kai E. Wittwer
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
ANA GISELLE HERREMAN-GARCIA,)
)
Defendant.)
_____)

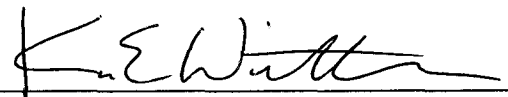
Case No. CR-FE-2014-0005550

MOTION FOR PREPARATION
OF TRANSCRIPT

COMES NOW, Kai E. Wittwer, Ada County Deputy Prosecuting Attorney, and moves this Court for an order for preparation of a transcript of the Preliminary Hearing that occurred on the 17th day of July, 2014 before Judge Theresa Gardunia. The basis of this motion is that the transcript is necessary for the State for use in preparation for trial.

DATED this 29th day of August, 2014.

GREG H. BOWER
Ada County Prosecuting Attorney


By: Kai E. Wittwer
Deputy Prosecuting Attorney

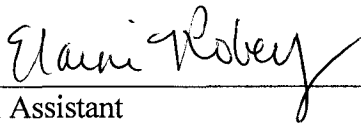
MO

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of August, 2014, I caused to be served, a true and correct copy of the foregoing MOTION AND ORDER FOR PREPARATION OF PRELIMINARY HEARING TRANSCRIPT upon the individual(s) named below in the manner noted:

Aaron Tribble, Attorney at Law, 1191 E. Iron Eagle Dr., Ste. 200, Eagle, ID 83616

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ Hand Delivery to said attorney(s)
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☒ By faxing copies of the same to said attorney(s) at the facsimile number:


Legal Assistant

SEP 02 2014

CHRISTOPHER D. RICH, Clerk
By TARA VILLEREAL
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Kai E. Wittwer
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
ANA GISELLE HERREMAN-GARCIA,)
)
Defendant.)
_____)

Case No. CR-FE-2014-0005550

**ORDER FOR PREPARATION
OF TRANSCRIPT**

Upon motion of the State, and good cause being shown;

IT IS HEREBY ORDERED that a transcript of proceedings from the Preliminary Hearing conducted on the 17th day of July, 2014 be prepared. The Transcription Department and/or Court Reporter is authorized, upon receipt of its estimated fees as provided for, in the case of transcripts of Preliminary Hearings, to prepare and deliver to the Court an original and a copy to the Ada County Prosecuting Attorney.

DATED this 2nd day of ~~August~~ ^{September}, 2014.



District Court Judge

ORDER FOR PREPARATION OF TRANSCRIPT (HERREMAN-GARCIA), Page 1

000062

N CC: Counsel / Trans

SEP 04 2014

CHRISTOPHER D. RICH, Clerk
By TARA VILLEREAL
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Kai E. Wittwer
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, Idaho 83702
Phone: (208) 287-7700
Fax: (208) 287-7707

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)

Plaintiff,)

vs.)

ANA GISELLE HERREMAN-GARCIA,)

Defendant.)

Case No. CR-FE-2014-0005550

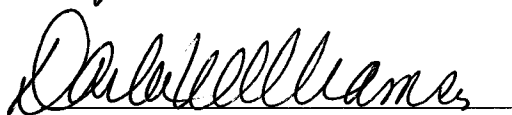
**ORDER EXTENDING
DISCOVERY DEADLINE**

THIS COURT, having considered the State's motion and good cause appearing;

IT IS HEREBY ORDERED that the discovery compliance deadline previously set by
the Court for September 2, 2014, be and hereby is extended to the 20 day of

September, 2014.

SO ORDERED this 4 day of September, 2014.


District Judge

ORDER EXTENDING DISCOVERY DEADLINE (HERREMAN-GARCIA)

000063

TV CC: Counsel

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9:30

NO. _____
FILED 3:15
A.M. _____ P.M. _____

SEP 05 2014

CHRISTOPHER D. RICH, Clerk
By RAE ANN NIXON
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
)	
Plaintiff,)	
)	
vs.	)	Case No. CRFE-2014-0005550
)	
ANA G. HERREMAN-GARCIA,	)	NOTICE OF PREPARATION
	)	OF PRELIMINARY HEARING
Defendant,	)	TRANSCRIPT
_____)	

An Order for transcript was filed in the above-entitled matter on September 2, 2014, and a copy of said Order was received by the Transcription Department on September 5, 2014. I certify the estimated cost of preparation of the transcript to be:

Type of Hearing: Preliminary Hearing
Date of Hearing: July 17, 2014 Judge: Theresa Gardunia
144 Pages x \$3.75 = \$540.00

In this case, the Ada Co. Prosecutor's Office has agreed to pay for the cost of the transcript fee upon completion of the transcript.

The Transcription Department will prepare the transcript and file it with the Clerk of the District Court within thirty (30) days (or expedited days) from the date of this notice. The transcriber may make application to the District Judge for an extension of time in which to prepare the transcript.

Date: September 5, 2014



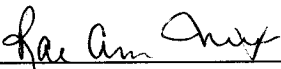
Rae Ann Nixon
Transcript Coordinator

mo

CERTIFICATE OF MAILING

I certify that on September 5, 2014, a true and correct copy of the Notice of Preparation of Transcript was forwarded to Defendant's attorney of record, by first class mail, at:

Ada Co. Prosecuting Attorney
200 W. Front St. Ste. 3191
Boise ID 83702
KIA WITTWER



Rae Ann Nixon
Transcript Coordinator

147
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930

NO. 10 FILED
A.M. 10 P.M.

GREG H. BOWER
Ada County Prosecuting Attorney

SEP 15 2014

CHRISTOPHER D. RICH, Clerk
By **AMY LANG**
DEPUTY

Kai E. Wittwer
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, ID 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
ANA GISELLE HERREMAN-GARCIA,)
)
Defendant.)
_____)

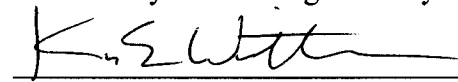
Case No. CR-FE-2014-0005550

FIRST ADDENDUM TO DISCOVERY

Comes now, Kai E. Wittwer, Deputy Prosecuting Attorney in and for Ada County, State of Idaho, and informs the Court that the State has submitted a FIRST Addendum to Response to Discovery.

RESPECTFULLY SUBMITTED this 12th day of September, 2014.

GREG H. BOWER
Ada County Prosecuting Attorney


Kai E. Wittwer
Deputy Prosecuting Attorney

a

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NO. 10 FILED
A.M. P.M.

SEP 19 2014

GREG H. BOWER
Ada County Prosecuting Attorney

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

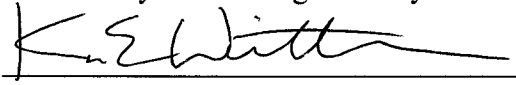
Kai E. Wittwer
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, ID 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2014-0005550
)	
vs.	)	SECOND ADDENDUM TO
	)	DISCOVERY
ANA GISELLE HERREMAN-GARCIA,)	
)	
Defendant.)	
_____)	

Comes now, Kai E. Wittwer, Deputy Prosecuting Attorney in and for Ada County, State of Idaho, and informs the Court that the State has submitted a SECOND Addendum to Response to Discovery.

RESPECTFULLY SUBMITTED this 18th day of September, 2014.

GREG H. BOWER
Ada County Prosecuting Attorney

Kai E. Wittwer
Deputy Prosecuting Attorney

SW

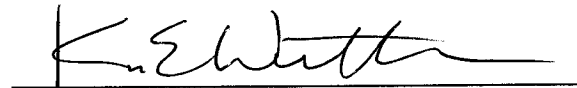
SEP 19 2014

Mukesh Mittal). These records will be self-authenticating pursuant to I.R.E. 902(11). Copies of said records have been disclosed to the defense, along with the accompanying certificates of the records custodians. Should additional inspection of the original documents be requested by the defense, counsel for the Defendant may contact the undersigned deputy prosecuting attorney.

DATED this 19th day of September, 2014

GREG H. BOWER

Ada County Prosecuting Attorney

A handwritten signature in black ink, appearing to read 'Kai E. Wittwer', is written over a horizontal line.

By: Kai E. Wittwer
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of September, 2014, a true and correct copy of the foregoing STATE'S NOTICE OF INTENT TO OFFER SELF-AUTHENTICATING RECORDS PURSUANT TO I.R.E. 803(6) & 902(11) was served to AARON TRIBBLE, Attorney at Law, 1191 E. Iron Eagle Dr., Ste. 200, Eagle, Idaho 83616, in the manner noted below:

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: _____

X hand delivery

Elaine Ribey
Legal Assistant

147
PTC
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9:30

NO. _____ FILED _____
A.M. _____ P.M. _____

SEP 24 2014

CHRISTOPHER D. RICH, Clerk
By SARA WRIGHT
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

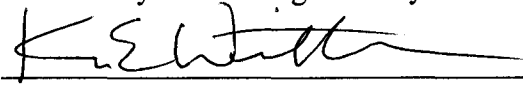
Kai E. Wittwer
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, ID 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2014-0005550
)	
vs.	)	THIRD ADDENDUM TO
	)	DISCOVERY
ANA GISELLE HERREMAN-GARCIA,)	
)	
Defendant.)	
_____)	

Comes now, Kai E. Wittwer, Deputy Prosecuting Attorney in and for Ada County, State of Idaho, and informs the Court that the State has submitted a THIRD Addendum to Response to Discovery.

RESPECTFULLY SUBMITTED this 24th day of September, 2014.

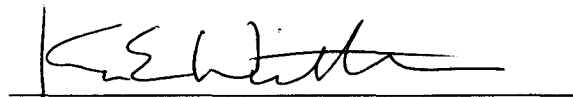
GREG H. BOWER
Ada County Prosecuting Attorney

Kai E. Wittwer
Deputy Prosecuting Attorney

State. Additionally, as records have been received and as trial preparation has continued, the State has discovered the need for additional records. Perhaps most importantly, the State recently has identified a heretofore unknown bank account that belonged to the Defendant during the time periods alleged in the Information. The State has good reason to believe that the records from that account will provide critical evidence that the crimes alleged were committed. Those records have been subpoenaed, but it will take some time to receive, disclose and review them.

The State notes that the Information in this case was filed on July 21, 2014, and the Defendant entered her not guilty plea at her initial District Court arraignment on July 28, 2014. Trial is currently scheduled for October 21, 2014, just three months from the filing of the Information; thus, there is still sufficient time to reschedule this trial well within the time limits required by law. Therefore, based upon the foregoing there is good cause for a continuance of the trial. The State respectfully requests that, if possible, the Court reschedule the trial during the first part of December 2014.

RESPECTFULLY SUBMITTED this 3rd day of October, 2014.

GREG H. BOWER
Ada County Prosecuting Attorney



By: Kai E. Wittwer
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of October, 2014, a true and correct copy of the foregoing MOTION TO CONTINUE JURY TRIAL was served to: AARON TRIBBLE, Attorney at Law, 1191 E. Iron Eagle Dr., Ste. 200, Eagle ID 83616, in the manner noted:

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.

☒ By faxing copies of the same to said attorney(s) at the facsimile number: 938-9504

Elaine Robey
Legal Assistant

147
PTC
10/6
9:30

NO. _____ FILED _____
A.M. _____ P.M. 2

OCT 03 2014

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney


Kai E. Wittwer
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, ID 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2014-0005550
)	
vs.	)	FOURTH ADDENDUM TO
	)	DISCOVERY
ANA GISELLE HERREMAN-GARCIA,)	
)	
Defendant.)	
_____)	

Comes now, Kai E. Wittwer, Deputy Prosecuting Attorney in and for Ada County, State of Idaho, and informs the Court that the State has submitted a FOURTH Addendum to Response to Discovery.

RESPECTFULLY SUBMITTED this 3rd day of October, 2014.

GREG H. BOWER
Ada County Prosecuting Attorney

Kai E. Wittwer
Deputy Prosecuting Attorney

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>09:41:21 AM</u>		CRFE14-5550 St v Ana Herreman-Garcia Pre-Trial Conference
<u>09:41:55 AM</u>		Defendant present on bond
<u>09:41:58 AM</u>	State Attorney	Kai Wittwer
<u>09:41:59 AM</u>	Personal Attorney	Aaron Tribble
<u>09:42:01 AM</u>	State Attorney	Argues Motion to Continue Jury Trial
<u>09:43:59 AM</u>	Personal Attorney	Argues in opposition to Motion to Continue Jury Trial
<u>09:45:14 AM</u>	State Attorney	Responds
<u>09:46:10 AM</u>	Judge	Vacates the Jury Trial
<u>09:46:28 AM</u>	Judge	Sets this case for Jury Trial - December 2 @ 9:30 am & PTC - November 17 @ 9:30 am

FILED
Monday, October 06, 2014 at 09:54 AM
CHRISTOPHER D. RICH, CLERK OF THE COURT
BY: Chris Viller
Deputy Clerk

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

DEBORAH A. BAIL
DISTRICT JUDGE

October 6, 2014

THE STATE OF IDAHO,
Plaintiff,

Case No. CR-FE-2014-0005550

vs.

ANA GISELLE HERREMAN-GARCIA,
Defendant.

NOTICE OF RE-SETTING TRIAL

THIS IS YOUR NOTICE OF RE-SETTING TRIAL

The above-entitled matter has been re-set for trial before the Court and a jury for:

Pretrial Conference.....Monday, November 17, 2014 @ 9:30 AM

Jury Trial.....Tuesday, December 02, 2014 @ 9:30 AM

- ▶ All requested jury instructions must be submitted to the court five (5) days prior to trial.
- ▶ Any motion to exclude a witness who was a victim of the alleged crime must be made two (2) weeks prior to trial.
- ▶ Notice is hereby given, pursuant to I.C.R. 25(a)(6) that an alternate judge may be assigned to preside over the trial of this case. The following is a list of potential alternate judges:

Hon. G. D. Carey
Hon. Dennis Goff
Hon. Renae Hoff
Hon. Daniel C. Hurlbutt, Jr.
Hon. James Judd
Hon. D. Duff McKee
Hon. James Morfitt

Justice Gerald Schroeder
Hon. Kathryn Sticklen
Hon. Linda Trout (mediations only, limited)
Hon. Darla Williamson
Hon. Ronald Wilper
Hon. William Woodland
All Sitting Fourth District Judges

Unless a party has previously exercised their right to disqualification without cause under Rule 25(a)(1), each party shall have the right to file one (1) motion for disqualification without cause as to any alternate judge not later than fourteen (14) days after service of this written notice listing the alternate judge.

Copies to Counsel:

ADA COUNTY PROSECUTORS OFFICE

AARON TRIBBLE
ATTORNEY AT LAW
1191 E IRON EAGLE DR STE 200
EAGLE ID 83616

147
PTC
11/17
9:30

NO. _____
FILED _____
A.M. _____ P.M. _____

OCT - 7 2014

GREG H. BOWER
Ada County Prosecuting Attorney

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

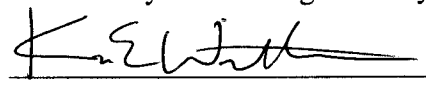
Kai E. Wittwer
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, ID 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2014-0005550
)	
vs.	)	FIFTH ADDENDUM TO
	)	DISCOVERY
ANA GISELLE HERREMAN-GARCIA,)	
)	
Defendant.)	
_____)	

Comes now, Kai E. Wittwer, Deputy Prosecuting Attorney in and for Ada County, State of Idaho, and informs the Court that the State has submitted a FIFTH Addendum to Response to Discovery.

RESPECTFULLY SUBMITTED this 7th day of October, 2014.

GREG H. BOWER
Ada County Prosecuting Attorney

Kai E. Wittwer
Deputy Prosecuting Attorney



147
PTC
11/17
9/20

NO. _____
AM. 10 P.M. _____

OCT 29 2014

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Kai E. Wittwer
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

ANA GISELLE HERREMAN-GARCIA,

Defendant,

Case No. CR-FE-2014-0005550

STATE'S SUPPLEMENTAL NOTICE
OF INTENT TO OFFER SELF-
AUTHENTICATING RECORDS
PURSUANT TO I.R.E. 803(6) &
902(11)

COMES NOW, Kai E. Wittwer, Deputy Prosecuting Attorney for the County of Ada, State of Idaho, and hereby gives a supplemental notice to the Court, the Defendant, and Counsel for the Defendant, that at the jury trial of the above-entitled matter the State intends to offer into evidence records of regularly conducted activity within the scope of I.R.E. 803(6) and 902(11), to wit: certified account records from Bank of America (pertaining to the account number ending 6127, belonging to the Defendant), and certified account records from U.S. Bank (pertaining to the account of A&A Landscape and Maintenance, LLP). The State

previously gave notice of its intent to offer self-authenticating records from U.S. Bank, Washington Federal Bank and ICON Credit Union. Since the time of that notice additional records from U.S. Bank, supported by a separate certificate of records custodian, as well as the above-described records from Bank of America, have been received by the State and disclosed to the defense. This notice, therefore, supplements the prior notice.

The above-described records will be self-authenticating pursuant to I.R.E. 902(11). Copies of said records have been disclosed to the defense, along with the accompanying certificates of the records custodians. Should additional inspection of the original documents be requested by the defense, counsel for the Defendant may contact the undersigned deputy prosecuting attorney.

DATED this 28th day of October, 2014

GREG H. BOWER

Ada County Prosecuting Attorney



By: Kai E. Wittwer
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of October, 2014, a true and correct copy of the foregoing STATE'S SUPPLEMENTAL NOTICE OF INTENT TO OFFER SELF-AUTHENTICATING RECORDS PURSUANT TO I.R.E. 803(6) & 902(11) was served to AARON TRIBBLE, Attorney at Law, 1191 E. Iron Eagle Dr., Ste. 200, Eagle, Idaho 83616, in the manner noted below:

- ☒ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: _____



Legal Assistant

147
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2:50

FILED
OCT 29 2014
AM PM

OCT 29 2014

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Kai E. Wittwer
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, ID 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2014-0005550
)	
vs.	)	SIXTH ADDENDUM TO
	)	DISCOVERY
ANA GISELLE HERREMAN-GARCIA,)	
)	
Defendant.)	
_____)	

Comes now, Kai E. Wittwer, Deputy Prosecuting Attorney in and for Ada County, State of Idaho, and informs the Court that the State has submitted a SIXTH Addendum to Response to Discovery.

RESPECTFULLY SUBMITTED this 28th day of October, 2014.

GREG H. BOWER
Ada County Prosecuting Attorney



Kai E. Wittwer
Deputy Prosecuting Attorney

SIXTH ADDENDUM TO DISCOVERY RESPONSE TO COURT (HERREMAN-GARCIA), Page 1

000082

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>09:54:54 AM</u>		CRFE14-5550 St v Ana Herreman-Garcia Pre-Trial Conference
<u>09:55:00 AM</u>		Defendant present on bond
<u>09:55:02 AM</u>	State Attorney	Kai Wittwer
<u>09:55:03 AM</u>	Personal Attorney	Aaron Tribble
<u>09:55:38 AM</u>	Personal Attorney	A go for trial

TIME RECEIVED

November 17, 2014 4:51:19 PM MST

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Nov. 17. 2014 4:54PM Law Office

NO. 4686 P. 1/2
A.M. PM

NOV 17 2014

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

Aaron J. Tribble ISB#8951
Eagle Law Center
1191 E. Iron Eagle Dr.
Suite 200
Eagle, ID 83616
T: 208-938-9500
F: 208-938-9504
E: aaron@eaglelawcenter.com

Attorney for Defendant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,

Plaintiff,

vs.

GISELLE HERREMAN,

Defendant.

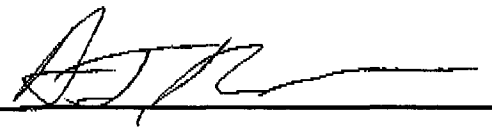
CASE NO. CR-FE-2014-0005550

**MOTION TO EXCLUDE VICTIM
WITNESSES**

The Defendant, by and through her attorney of record Aaron J. Tribble, hereby moves this Court for an order excluding the victim witnesses from the courtroom during the trial. In this case, the victim is identified as A&A Landscaping, a company with three owners. The three owners are Martina Garcia, Antonio Ayon, and Alejandro Ayon. With all three "victims" present in the courtroom during testimony, the possibility exists that each owner's testimony may be influenced by the other. To avoid any possibility of collaboration and mixing of testimony, it

1 become essential that the victims, all three, be excluded from the courtroom during argument and
2 testimony.

3
4 DATED this 17th day of November, 2014.

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6 
7 Aaron J. Tribble

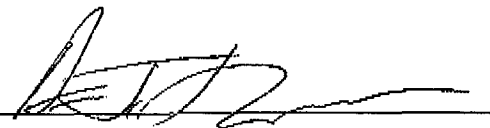
8 *Attorney for Defendant*
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14 **CERTIFICATE OF SERVICE**

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16 I HEREBY CERTIFY that on this 17th day of November, 2014, I caused a true and
17 correct copy of the foregoing document to be served by the method indicated below, and
18 addressed to the following:

19 Ada County Prosecutor's Office
20 200 W. Front Street Room 3191
21 Boise, ID 83702
22 Fax: 208-287-7709

() U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
(x) Facsimile

23
24 
25 Aaron J. Tribble

26 *Attorney for Defendant*
27
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NO. _____
A.M. _____ P.M. _____

NOV 20 2014

CHRISTOPHER D. RICH, Clerk
By AMY LANG
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Kai E. Wittwer
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, ID 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2014-0005550
vs.)	
	)	STATE'S LIST OF POTENTIAL
ANA GISELLE HERREMAN GARCIA,	)	TRIAL WITNESSES
)	
Defendant.)	
)	
)	
)	

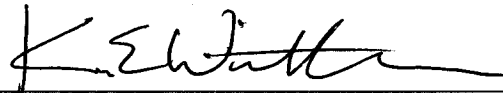
COMES NOW, Kai E. Wittwer, Deputy Prosecuting Attorney for the County of Ada,
State of Idaho, and provides the Court and Counsel with the following list of potential witnesses
who may be called by the State to testify at the jury trial of this matter:

1. Federico Munoz
2. Mukesh Mittal
3. Richard Pavelek
4. Antonio Ayon
5. Alejandro Ayon
6. Martina Garcia

7. Victoria Mauleon
8. Wade Spain

RESPECTFULLY SUBMITTED this 20th day of November, 2014.

GREG H. BOWER
Ada County Prosecuting Attorney



By: Kai E. Wittwer
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of November, 2014, a true and correct copy of the foregoing STATE'S LIST OF POTENTIAL TRIAL WITNESSES was served to:
AARON J. TRIBBLE, Eagle Law Center, 1191 E. Iron Eagle Dr., Ste. 200, Eagle ID 83616, in the manner noted below:

- ☐ By hand delivery.
- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.

☒ By faxing copies of the same to said attorney(s) at the facsimile number: 938 9504



Legal Assistant

TIME RECEIVED
November 20, 2014 3:54:06 PM MST

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Nov. 20. 2014 3:56PM Law Office

No. 4713 P. 1/3

NO. _____
A.M. _____ FILED P.M. _____

NOV 20 2014

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

Aaron J. Tribble ISB#8951
Eagle Law Center
1191 E. Iron Eagle Dr.
Suite 200
Eagle, ID 83616
T: 208-246-8850
F: 208-938-9504
E: aaron@eaglelawcenter.com

Attorney for Defendant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,

Plaintiff,

vs.

JISELLE HERREMAN,

Defendant.

CASE NO. CR-FE-2014-0005550

**DEFENDANT'S LIST OF POTENTIAL
TRIAL WITNESSES**

TO: ADA COUNTY PROSECUTING ATTORNEY

PLEASE TAKE NOTICE that the Defendant may call as witnesses in this trial, in addition to any of the victim witnesses previously disclosed by the State, the following individuals:

- a. George Garcia, former Maintenance Crew Leader at A&A Landscaping.
C/o Eagle Law Center

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1 1191 E. Iron Eagle Dr.

2 Eagle, ID 83616

3 b. Hugo Garcia, former Operations Manager at A&A Landscaping.

4 C/o Eagle Law Center

5 1191 E. Iron Eagle Dr.

6 Eagle, ID 83616

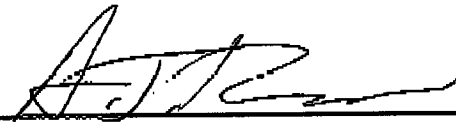
7 c. Alfredo Herreman, former employee at A&A Landscaping, currently a
8 competitor of A&A Landscaping

9 C/o Eagle Law Center

10 1191 E. Iron Eagle Dr.

11 Eagle, ID 83616

12
13 DATED this 20th day of November, 2014.

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16 Aaron J. Tribble

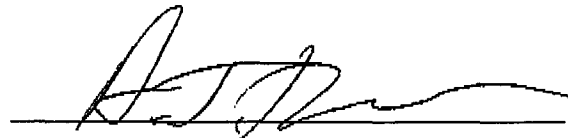
17 *Attorney for Defendant*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of November, 2014, I caused a true and correct copy of the foregoing document to be served by the method indicated below, and addressed to the following:

Ada County Prosecutor's Office
200 W. Front Street Room 3191
Boise, ID 83702
Fax: 208-287-7709

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☐ Hand Delivered
☐ Overnight Mail
☒ Facsimile



Aaron J. Tribble

Attorney for Defendant

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NOV 26 2014

CHRISTOPHER D. RICH, Clerk
By AMY LANG
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

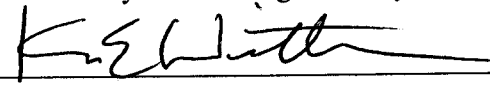
Kai E. Wittwer
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, ID 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2014-0005550
)	
vs.	)	SEVENTH ADDENDUM TO
	)	DISCOVERY
ANA GISELLE HERREMAN-GARCIA,)	
)	
Defendant.)	
_____)	

Comes now, Kai E. Wittwer, Deputy Prosecuting Attorney in and for Ada County, State of Idaho, and informs the Court that the State has submitted a SEVENTH Addendum to Response to Discovery.

RESPECTFULLY SUBMITTED this 25th day of November, 2014.

GREG H. BOWER
Ada County Prosecuting Attorney

Kai E. Wittwer
Deputy Prosecuting Attorney

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TIME RECEIVED
November 26, 2014 1:44:10 PM MST

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CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

Aaron J. Tribble ISB#8951
Eagle Law Center
1191 E. Iron Eagle Dr.
Suite 200
Eagle, ID 83616
T: 208-938-9500
F: 208-938-9504
E: aaron@eaglelawcenter.com

Attorney for Defendant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,

Plaintiff,

vs.

GISELLE HERREMAN,

Defendant.

CASE NO. CR-FE-2014-0005550

**DEFENDANT'S PROPOSED JURY
INSTRUCTIONS**

ICJI 103 REASONABLE DOUBT

PRESUMPTION OF INNOCENCE-REASONABLE DOUBT

INSTRUCTION NO.

Under our law and system of justice, the defendant is presumed to be innocent. The presumption of innocence means two things.

First, the state has the burden of proving the defendant guilty. The state has that burden throughout the trial. The

1 defendant is never required to prove [his] [her] innocence, nor
2 does the defendant ever have to produce any evidence at all.

3 Second, the state must prove the alleged crime beyond a
4 reasonable doubt. A reasonable doubt is not a mere possible or
5 imaginary doubt. It is a doubt based on reason and common sense.
6 It may arise from a careful and impartial consideration of all
7 the evidence, or from lack of evidence. If after considering all
8 the evidence you have a reasonable doubt about the defendant's
9 guilt, you must find the defendant not guilty.

10 Comment

11 The Due Process Clause of the Fourteenth Amendment requires that
12 the jury be instructed on the presumption of innocence. *Taylor v.*
13 *Kentucky*, 436 U.S. 478 (1977). Although technically not a
14 "presumption", the presumption of innocence is a way of
15 describing the prosecution's duty both to produce evidence of
16 guilt and to convince the jury beyond a reasonable doubt. *Id.*

17 "The beyond a reasonable doubt standard is a requirement of due
18 process, but the Constitution neither prohibits trial courts from
19 defining reasonable doubt nor requires them to do so as a matter
20 of course. Indeed, so long as the court instructs the jury on
21 the necessity that the defendant's guilt be proved beyond a
22 reasonable doubt, the Constitution does not require that any
23 particular form of words be used in advising the jury of the
24 government's burden of proof. Rather, 'taken as a whole, the
25 instructions [must] correctly convey the concept of reasonable
26 doubt to the jury.'" *Victor v. Nebraska*, 511 U.S. 1, 5 (1994)
27 (citations omitted).

28 The above instruction reflects the view that it is
preferable to instruct the jury on the meaning of proof beyond a
reasonable doubt. This instruction defines that term concisely
while avoiding the pitfalls arising from some other attempts to
define this concept.

COUNT I: GRAND THEFT

ICJI 542A GRAND THEFT

INSTRUCTION NO.

In order for the defendant to be guilty of Grand Theft, the state must prove each of the following:

1. On or about [SEE INFORMATION]
2. in the state of Idaho
3. the defendant ANA GISELLE HERREMAN GARCIA wrongfully took property [described as: (SEE INFORMATION)],
4. from an owner,
5. with the intent to deprive an owner of the property or to appropriate the property, and
6. the property exceeded one thousand dollars (\$1000) in value

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty of Grand Theft. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty of Grand Theft.

Comment

I.C. § 18-2407.

Effective July 1, 1999, the value of property necessary to constitute grand theft was increased from \$300 to \$1,000.

If, pursuant to I.C. § 18-2407(1)(b)(8), several thefts are charged in one count as being part of a common scheme or plan with the aggregate value of the property stolen exceeding \$1,000, use ICJI 554.

ICJI 562 INTENT TO APPROPRIATE OR DEPRIVE DEFINED

INSTRUCTION NO.

The phrase "intent to deprive" means:

- a. The intent to withhold property or cause it to be withheld from an owner permanently or for so extended a period or under such circumstances that the major portion of its economic value or benefit is lost to such owner; or

1 b. The intent to dispose of the property in such manner or
2 under such circumstances as to render it unlikely that an owner
will recover such property.

3 The phrase "intent to appropriate" means:

4 a. The intent to exercise control over property, or to aid
someone other than the owner to exercise control over it,
5 permanently or for so extended a period of time or under such
circumstances as to acquire the major portion of its economic
6 value or benefit; or

7 b. The intent to dispose of the property for the benefit of
oneself or someone other than the owner.

8 Comment

9 I.C. § 18-2402(1) & (3).

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13 COUNT II: FORGERY

14 ICJI 810 FORGERY

15 INSTRUCTION NO.

16
17 In order for the defendant to be guilty of Forgery, the
state must prove each of the following:

- 18 1. On or about [SEE INFORMATION]
19 2. in the state of Idaho
20 3. the defendant ANA GISELLE HERREMAN GARCIA
21 4. with the intent to defraud A&A LANDSCAPING AND
22 MAINTENANCE, LLP
23 5. [falsely made, altered, forged or counterfeited a CHECKS
5008 AND 581] OR [passed, or attempted to pass as true and
24 genuine a false, altered, forged, or counterfeited CHECK 5008 AND
25 581 knowing the same to be false, altered, forged, or
counterfeited, with the intent to prejudice, damage, or defraud
any person]

26 If any of the above has not been proven beyond a reasonable
27 doubt, you must find the defendant not guilty. If each of the
above has been proven beyond a reasonable doubt, then you must
28 find the defendant guilty.

Comment

1 I.C. § 18-3601.

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ICJI 803 INTENT TO DEFRAUD DEFINED

4

INSTRUCTION NO.

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An intent to defraud is an intent to deceive another person for the purpose of gaining some material advantage over that person or to induce that person to part with property or to alter that person's position to the injury or risk of the person, and to accomplish that purpose by some false statement, false representation of fact, wrongful concealment or suppression of truth, or by any other artifice or act designed to deceive.

8

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Comment

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See *State v. May*, 93 Idaho 343, 461 P.2d 126 (1969).

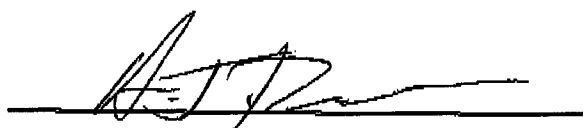
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DATED this 26th day of November, 2014.

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Aaron J. Tribble

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Attorney for Defendant

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of November, 2014, I caused a true and correct copy of the foregoing document to be served by the method indicated below, and addressed to the following:

Ada County Prosecutor's Office
200 W. Front Street Room 3191
Boise, ID 83702
Fax: 208-287-7709

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Aaron J. Tribble

Attorney for Defendant

NO. _____ FILED 1:20
A.M. _____ P.M.

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CHRISTOPHER D. RICH, Clerk
By TARA VILLEREAL
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Kai E. Wittwer
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, ID 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2014-0005550
vs.)	
	)	STATE'S TRIAL EXHIBIT LIST
ANA GISELLE HERREMAN GARCIA,)	
)	
Defendant.)	
)	
)	
)	

COMES NOW, **Kai E. Wittwer**, Deputy Prosecuting Attorney for the County of Ada, State of Idaho, and provides the Court and Counsel with the following list of exhibits the State intends to introduce into evidence at the jury trial of this matter:

<u>Exhibit Number</u>	<u>Description</u>	<u>Admitted</u>
1	A&A Landscape paycheck stubs, time sheets and paycheck copies	
2	Copies of alleged unauthorized checks (10 checks)	
3	Copy of original Mukesh Mittal check # 5008	
4	Certified account records from ICON Credit Union	

5	Copy of original Terra Nativa HOA check # 581	
6	Certified account records from Washington Federal	
7	Document entitled "Agreement to Pay Debt by Installments"	
8	Certified account records from U.S. Bank	
9	Certified account records from Bank of America	
10	Summary of paychecks	
11	Summary of "other" checks	
12	Summary of ATM withdrawals and deposits to Defendant's bank account	

RESPECTFULLY SUBMITTED this 2nd day of December, 2014.

GREG H. BOWER

Ada County Prosecuting Attorney



By: Kai E. Wittwer

Deputy Prosecuting Attorney

Time	Speaker	Note
09:20:08 AM		CRFE14-5550 St v Ana Herreman-Garcia Jury Trial - Day 1
09:20:24 AM	State Attorney	Kai Wittwer
09:20:25 AM	Personal Attorney	Aaron Tribble
01:36:17 PM	Judge	Calls case
01:36:25 PM	Judge	instructs counsel
01:38:59 PM	State Attorney	requests the Information be corrected by interlineation
01:40:01 PM	Personal Attorney	no objection
01:40:25 PM	Judge	corrects the Information by interlineation
01:41:43 PM		Court recesses
01:41:46 PM		Court resumes
01:49:52 PM		the prospective jury panel is present
01:50:42 PM	Clerk	Calls roll
01:54:18 PM	Clerk	Swears in the prospective jury panel
01:55:36 PM	Judge	Reads the Information
02:04:37 PM	Judge	Voir dres the prospective jury panel
02:06:39 PM	Clerk	Draws twenty-seven names
02:16:37 PM	State Attorney	Voir dres the prospective jury panel
02:22:49 PM	Judge	Juror # 162 is excused by the Court with cause
02:35:37 PM	State Attorney	passes the panel with cause
02:35:44 PM	Personal Attorney	Voir dres the prospective jury panel
02:57:36 PM	Personal Attorney	passes the panel with cause
02:57:41 PM	Judge	Thanks and excuses the remaining prospective jury panel
02:58:05 PM		counsel exercise their peremptory challenges
03:20:27 PM	Judge	Seats the trial jury
03:24:25 PM	Judge	Thanks and excuses the remaining prospective jury panel
03:24:39 PM		Court recesses
03:24:47 PM		Court resumes
03:42:13 PM		the jury is present
03:42:44 PM	Clerk	Swears in the trial jury
03:42:56 PM	Judge	Reads the Information
03:50:54 PM	Judge	Reads preliminary jury instructions
03:57:15 PM	State Attorney	Opening statement
04:03:09 PM	Personal Attorney	Opening statement
04:11:07 PM	State Attorney	Calls Mukesh Mittal, sworn, direct examination
04:15:04 PM	State Attorney	Exhibit # 3 previously marked is identified
04:16:11 PM	State Attorney	Moves to admit Exhibit # 3

04:16:17 PM	Personal Attorney	No objection
04:16:22 PM	Judge	Exhibit # 3 is admitted
04:18:28 PM	State Attorney	Exhibit # 4 previously marked is identified
04:20:03 PM	State Attorney	Moves to admit Exhibit # 4
04:20:05 PM	Personal Attorney	No objection
04:20:07 PM	Judge	Exhibit # 4 is admitted
04:23:25 PM	Personal Attorney	Cross-examination of the witness - Mukesh Mittal
04:25:08 PM	Judge	excuses the witness - Mukesh Mittal
04:25:25 PM	State Attorney	Calls Richard Pavelek, sworn, direct examination
04:29:26 PM	State Attorney	Exhibit # 5 previously marked is identified
04:30:55 PM	State Attorney	Moves to admit Exhibit # 5
04:30:59 PM	Personal Attorney	No objection
04:31:02 PM	Judge	Exhibit # 5 is admitted
04:32:10 PM	State Attorney	Exhibit # 6 previously marked is identified
04:34:23 PM	State Attorney	Moves to admit Exhibit # 6
04:34:27 PM	Personal Attorney	No objection
04:34:35 PM	Judge	Exhibit # 6 is admitted
04:37:53 PM	Personal Attorney	Cross-examination of the witness - Richard Pavelek
04:40:44 PM	Judge	excuses the witness - Richard Pavelek
04:41:16 PM	State Attorney	Calls Federico Munoz, sworn, direct examination with interpreter - Vanesa Bell
04:52:54 PM	Personal Attorney	Objection - relevance
04:53:27 PM	Judge	Objection is overruled
04:54:22 PM	State Attorney	Exhibit # 1 previously marked is identified
04:59:52 PM	State Attorney	Moves to admit Exhibit # 1
05:00:00 PM	Personal Attorney	Objection -
05:00:06 PM	Judge	admonishes the jury and excuses them for the day
05:01:01 PM	Personal Attorney	Objection - relevance. Argues 404(b) Motion
05:03:30 PM	State Attorney	Responds
05:05:16 PM	Personal Attorney	Responds
05:08:19 PM	State Attorney	Responds
05:09:29 PM	Personal Attorney	Responds
05:10:20 PM	Judge	will consider the arguments and issue a decision tomorrow
05:10:34 PM		Court recesses

Time	Speaker	Note
09:07:14 AM		CRFE14-5550 St v Ana Herreman-Garcia Jury Trial - Day 2
09:07:33 AM	State Attorney	Kai Wittwer
09:07:34 AM	Personal Attorney	Aaron Tribble
09:30:35 AM	Judge	Calls case. the jury is not present
09:30:42 AM	State Attorney	comments re: when discovery was disclosed
09:33:12 AM	Judge	Objection is overruled
09:35:39 AM	Judge	Exhibit # 1 is admitted
09:37:43 AM		the jury is present
09:37:59 AM	State Attorney	continues direct examination of the witness - Federico Munoz, previously sworn with interpreter - Vanesa Bell
09:45:37 AM	State Attorney	Exhibit # 2 previously marked is identified
09:48:11 AM	State Attorney	Moves to admit Exhibit # 2
09:48:12 AM	Personal Attorney	Objection - relevance
09:48:21 AM	Judge	Objection is overruled
09:48:24 AM	Judge	Exhibit # 2 is admitted
09:57:11 AM	Judge	admonishes the jury
09:57:13 AM		Court recesses
10:10:01 AM		Court resumes
10:10:10 AM		the jury is not present
10:10:14 AM	Personal Attorney	Argues Motion to Exclude Witnesses
10:10:33 AM	Judge	Grants the Motion to Exclude Witnesses
10:12:09 AM		the jury is present
10:12:45 AM	Personal Attorney	Cross-examination of the witness - Federico Munoz
10:27:16 AM	State Attorney	Re-direct examination of the witness - Federico Munoz
10:27:56 AM	Judge	excuses the witness - Federico Munoz
10:28:05 AM	State Attorney	Calls Antonio Ayon, sworn, direct examination with interpreter - Vanesa Bell
10:45:49 AM	Personal Attorney	Objection - relevance
10:46:33 AM	Judge	Objection is overruled
10:49:29 AM	Personal Attorney	Objection - outside jurisdiction
10:49:41 AM	Judge	Objection is overruled
10:50:27 AM	Personal Attorney	Objection - 404(b)
10:50:28 AM	Judge	Objection is overruled
11:01:59 AM	State Attorney	Exhibit # 7 previously marked is identified
11:03:16 AM	State Attorney	Moves to admit Exhibit # 7
11:03:18 AM	Personal Attorney	No objection
11:03:21 AM	Judge	Exhibit # 7 is admitted

<u>11:21:56 AM</u>	State Attorney	Exhibit # 8 previously marked is identified
<u>11:23:21 AM</u>	State Attorney	Moves to admit Exhibit # 8
<u>11:23:26 AM</u>	Personal Attorney	Objection - 404(b) & 403 & relevance
<u>11:23:48 AM</u>	Judge	Objection is overruled
<u>11:23:48 AM</u>	Judge	Exhibit # 8 is admitted
<u>11:26:18 AM</u>	Personal Attorney	Cross-examination of the witness - Antonio Ayon
<u>11:34:13 AM</u>	State Attorney	Objection - relevance
<u>11:35:31 AM</u>	Judge	Objection is sustained
<u>11:55:36 AM</u>	State Attorney	Objection - speculation
<u>11:55:42 AM</u>	Judge	Objection is sustained as to the form of the question
<u>12:00:05 PM</u>	Judge	admonishes the jury
<u>12:00:10 PM</u>		Court recesses
<u>01:37:07 PM</u>		Court resumes
<u>01:37:13 PM</u>		the jury is not present
<u>01:37:19 PM</u>	State Attorney	requests the victim Martina Garcia be able to stay in the courtroom
<u>01:37:46 PM</u>	Judge	she can be present in the courtroom
<u>01:38:15 PM</u>	Personal Attorney	Responds
<u>01:38:44 PM</u>		the jury is present
<u>01:39:27 PM</u>	Personal Attorney	continues cross-examination of the witness - Antonio Ayon
<u>01:51:14 PM</u>	State Attorney	Objection - form of the question
<u>01:51:15 PM</u>	Judge	Objection is sustained
<u>01:53:46 PM</u>	State Attorney	Objection - beyond the scope
<u>01:53:54 PM</u>	Judge	Objection is overruled
<u>01:54:20 PM</u>	State Attorney	Objection - relevance
<u>01:54:24 PM</u>	Judge	Objection is sustained
<u>01:54:38 PM</u>	State Attorney	Objection - relevance
<u>01:54:40 PM</u>	Judge	Objection is sustained
<u>01:57:06 PM</u>	State Attorney	Objection - speculation
<u>01:57:08 PM</u>	Judge	Objection is overruled
<u>02:12:29 PM</u>	State Attorney	Objection - asked and answered
<u>02:12:33 PM</u>	Judge	Objection is overruled
<u>02:14:38 PM</u>	State Attorney	Objection - asked and answered
<u>02:14:45 PM</u>	Judge	Objection is sustained
<u>02:15:23 PM</u>	State Attorney	Re-direct examination of the witness - Antonio Ayon
<u>02:22:14 PM</u>	Judge	excuses the witness - Antonio Ayon
<u>02:22:30 PM</u>	Judge	admonishes the jury
<u>02:22:36 PM</u>		Court recesses
<u>03:13:23 PM</u>		Court resumes
<u>03:13:27 PM</u>		the jury is present

<u>03:13:36 PM</u>	State Attorney	Calls Martina Garcia, sworn, direct examination with interpreter - Vanesa Bell
<u>03:27:39 PM</u>	Personal Attorney	Objection - 404(b) and 403
<u>03:27:40 PM</u>	Judge	Objection is overruled
<u>03:56:05 PM</u>	Personal Attorney	Cross-examination of the witness - Martina Garcia
<u>03:58:08 PM</u>	Personal Attorney	Exhibit # A is marked, identified and moves to admit Exhibit # A
<u>03:58:09 PM</u>	State Attorney	No objection
<u>03:58:10 PM</u>	Judge	Exhibit # A is admitted
<u>04:40:27 PM</u>	Judge	admonishes the jury
<u>04:40:37 PM</u>		Court recesses

Time	Speaker	Note
<u>8:56:16 AM</u>		CRFE14-5550 St v Ana Herreman-Garcia Jury Trial - Day 3
<u>8:56:30 AM</u>	State Attorney	Kai Wittwer
<u>8:56:31 AM</u>	Personal Attorney	Aaron Tribble
<u>9:36:26 AM</u>	Judge	Calls case
<u>9:36:33 AM</u>		the jury is present
<u>9:37:01 AM</u>	Personal Attorney	continues cross-examination of the witness - Martina Garcia
<u>9:47:48 AM</u>	State Attorney	Objection - relevance
<u>9:47:49 AM</u>	Personal Attorney	Response
<u>9:47:55 AM</u>	Judge	Objection is overruled
<u>10:04:17 AM</u>	State Attorney	Objection - beyond the scope
<u>10:04:19 AM</u>	Judge	Objection is sustained
<u>10:06:39 AM</u>	State Attorney	Objection - argumentative
<u>10:06:42 AM</u>	Judge	Objection is sustained
<u>10:06:53 AM</u>	State Attorney	Objection - argumentative
<u>10:06:57 AM</u>	Judge	Objection is sustained
<u>10:23:27 AM</u>	State Attorney	Objection - relevance
<u>10:23:31 AM</u>	Judge	Objection is sustained
<u>10:23:52 AM</u>	State Attorney	Objection - relevance
<u>10:24:18 AM</u>	Judge	Objection is sustained
<u>10:45:24 AM</u>	State Attorney	Objection - argumentative
<u>10:45:26 AM</u>	Judge	Objection is sustained
<u>10:45:29 AM</u>	Judge	admonishes the jury
<u>10:45:36 AM</u>		Court recesses
<u>11:03:13 AM</u>		Court resumes
<u>11:03:18 AM</u>		the jury is present
<u>11:03:26 AM</u>	Personal Attorney	continues cross-examination of the witness - Martina Garcia
<u>11:04:11 AM</u>	State Attorney	Objection - asked and answered
<u>11:04:19 AM</u>	Judge	Objection is sustained
<u>11:05:41 AM</u>	State Attorney	Re-direct examination of the witness - Martina Garcia

<u>11:20:08 AM</u>	Personal Attorney	Re-cross examination of the witness - Martina Garcia
<u>11:24:41 AM</u>	Judge	excuses the witness - Martina Garcia
<u>11:24:42 AM</u>	State Attorney	Calls Victoria Mauleon, sworn, direct examination
<u>11:40:45 AM</u>	Personal Attorney	Cross-examination of the witness - Victoria Mauleon
<u>11:44:02 AM</u>	State Attorney	Objection - beyond the scope
<u>11:44:07 AM</u>	Personal Attorney	Response
<u>11:44:49 AM</u>	Judge	Objection is sustained
<u>11:47:50 AM</u>	State Attorney	Re-direct examination of the witness - Victoria Mauleon
<u>11:48:22 AM</u>	Judge	excuses the witness - Victoria Mauleon
<u>11:48:23 AM</u>	Judge	admonishes the jury
<u>11:48:34 AM</u>		Court recesses
<u>1:55:07 PM</u>		Court resumes
<u>1:55:09 PM</u>		the jury is present
<u>1:55:16 PM</u>	State Attorney	Calls Wade Spain, sworn, direct examination
<u>2:01:49 PM</u>	State Attorney	Exhibit # 9 previously marked is identified
<u>2:03:35 PM</u>	State Attorney	Moves to admit Exhibit # 9
<u>2:03:46 PM</u>	Personal Attorney	Objection - 402, 403 and 404(b)
<u>2:04:03 PM</u>	Judge	Objection is overruled
<u>2:04:03 PM</u>	Judge	Exhibit # 9 is admitted
<u>2:27:32 PM</u>	State Attorney	Exhibit # 10 previously marked is identified
<u>2:28:20 PM</u>	State Attorney	Moves to admit Exhibit # 10
<u>2:28:22 PM</u>	Personal Attorney	Objection - 402, 403 and 404(b)
<u>2:28:25 PM</u>	Judge	Objection is overruled
<u>2:28:27 PM</u>	Judge	Exhibit # 10 is admitted
<u>2:35:40 PM</u>	State Attorney	Exhibit # 11 previously marked is identified
<u>2:36:12 PM</u>	State Attorney	Moves to admit Exhibit # 11
<u>2:36:14 PM</u>	Personal Attorney	Objection - 402, 403 and 404(b)
<u>2:36:15 PM</u>	Judge	Objection is overruled
<u>2:36:15 PM</u>	Judge	Exhibit # 11 is admitted

<u>2:42:57 PM</u>	State Attorney	Exhibit # 12 previously marked is identified
<u>2:43:34 PM</u>	State Attorney	Moves to admit Exhibit # 12
<u>2:43:35 PM</u>	Personal Attorney	Objection - 402, 403 and 404(b)
<u>2:43:36 PM</u>	Judge	Objection is overruled
<u>2:43:36 PM</u>	Judge	Exhibit # 12 is admitted
<u>2:52:45 PM</u>		Court recesses
<u>3:05:41 PM</u>		Court resumes
<u>3:05:56 PM</u>		the jury is present
<u>3:06:00 PM</u>	Personal Attorney	Cross-examination of the witness - Wade Spain
<u>3:07:59 PM</u>	Personal Attorney	Exhibit # B is marked and identified
<u>3:09:02 PM</u>	Personal Attorney	Moves to admit Exhibit # B
<u>3:09:03 PM</u>	State Attorney	Objection - hearsay
<u>3:09:09 PM</u>	Judge	Objection is sustained
<u>3:12:00 PM</u>	Personal Attorney	Exhibit # C is marked and identified
<u>3:13:31 PM</u>		side-bar
<u>3:15:09 PM</u>		Jury is excused
<u>3:15:20 PM</u>	Personal Attorney	Argues for the admission of Exhibit # C
<u>3:19:23 PM</u>	Judge	Denies the admission of Exhibit # C
<u>3:19:27 PM</u>		the jury is present
<u>3:20:07 PM</u>	Personal Attorney	continues cross-examination of the witness - Wade Spain
<u>3:32:04 PM</u>	State Attorney	Objection - argumentative
<u>3:32:07 PM</u>	Judge	Objection is overruled
<u>3:38:28 PM</u>	State Attorney	Objection -
<u>3:38:30 PM</u>	Judge	Objection is sustained
<u>3:44:09 PM</u>	State Attorney	Objection - asked and answered
<u>3:44:12 PM</u>	Judge	Objection is sustained
<u>3:48:35 PM</u>	State Attorney	Objection - argumentative
<u>3:48:47 PM</u>	Judge	Objection is sustained
<u>3:49:16 PM</u>	State Attorney	Objection -
<u>3:49:18 PM</u>	Judge	Objection is sustained

<u>4:00:10 PM</u>	State Attorney	Re-direct examination of the witness - Wade Spain
<u>4:07:00 PM</u>	Personal Attorney	Re-cross examination of the witness - Wade Spain
<u>4:08:21 PM</u>	Judge	excuses the witness - Wade Spain
<u>4:08:22 PM</u>	State Attorney	State rests
<u>4:08:44 PM</u>	Personal Attorney	comments re: transcript
<u>4:11:22 PM</u>	Judge	admonishes and excuses the jury
<u>4:11:57 PM</u>	State Attorney	Objects to re-calling Martina Garcia
<u>4:15:00 PM</u>	Judge	will allow the witness - Martina Garcia
<u>4:15:24 PM</u>	Judge	Advises the Defendant of her rights regarding her own testimony
<u>4:16:01 PM</u>		Court recesses
<u>4:24:19 PM</u>		Court resumes
<u>4:24:24 PM</u>		the jury is not present
<u>4:24:29 PM</u>	State Attorney	Objects to re-calling Martina Garcia
<u>4:26:26 PM</u>	Personal Attorney	Responds
<u>4:26:50 PM</u>	Judge	will allow limited testimony
<u>4:31:36 PM</u>		the jury is present
<u>4:32:17 PM</u>	Personal Attorney	Calls Alfredo Herreman, sworn, direct examination
<u>4:41:28 PM</u>	State Attorney	Objection - hearsay
<u>4:41:32 PM</u>	Judge	Objection is overruled
<u>4:50:41 PM</u>	State Attorney	Objection
<u>4:50:43 PM</u>	Judge	Objection is sustained
<u>4:51:17 PM</u>	State Attorney	Objection - non-responsive
<u>4:51:23 PM</u>	Judge	Objection is sustained
<u>4:55:06 PM</u>	Judge	admonishes the jury
<u>4:55:29 PM</u>		Court recesses

Time	Speaker	Note
9:41:24 AM	Judge	counsel to bring up issue
9:41:36 AM	Tribble	would like to call a witness for impeachment
9:41:48 AM	Judge	comments
9:41:52 AM	Tribble	spells out the issue,
9:42:22 AM	Judge	addresses counsel, will not take up the issue at this time
9:43:13 AM	Tribble	inquires
9:43:20 AM	Judge	remarks, bring in jury, get the witness,
9:44:34 AM	Judge	witness (Alfredo Herreman) still under oath
9:44:52 AM	Tribble	con't direct
9:54:12 AM	Judge	addresses the witness
9:54:24 AM	Tribble	direct
9:54:55 AM	State Attorney	obj, foundation
9:54:59 AM	Judge	be more precise on foundation
9:55:12 AM	Tribble	direct
9:55:46 AM	Judge	addresses counsel
9:56:01 AM	Tribble	direct
9:56:49 AM	State Attorney	obj hearsay
9:56:56 AM	Judge	sustained
9:57:01 AM	Tribble	direct
9:57:06 AM	State Attorney	obj leadig
9:57:11 AM	Judge	sustained
9:57:17 AM	Tribble	argues
9:57:21 AM	Judge	addresses counsel
9:57:57 AM	Tribble	direct
9:58:41 AM	State Attorney	obj relevance
9:58:46 AM	Tribble	argues
9:58:52 AM	Judge	overruled
9:58:58 AM	Tribble	direct
10:04:29 AM	State Attorney	obj relevance
10:04:34 AM	Judge	sustained
10:04:39 AM	Tribble	direct
10:07:45 AM	State Attorney	cross
10:13:57 AM	Tribble	obj argues
10:14:05 AM	Judge	overruled
10:14:09 AM	State Attorney	cross

10:15:35 AM	Tribble	obj foundation
10:15:41 AM	Judge	sustained
10:15:45 AM	State Attorney	cross
10:16:34 AM	Tribble	obj argues
10:16:47 AM	Judge	sustained
10:16:55 AM	State Attorney	cross
10:17:18 AM	Judge	witness steps down
10:17:25 AM	Tribble	calls Ann Herreman Garcia
10:18:09 AM	Judge	we will take a short break, admonishes the jurors
10:18:33 AM	Judge	addresses the defendant, we will recess
10:34:03 AM	Judge	jury present
10:34:24 AM	Tribble	calls Ann Herreman-Garcia direct exam
10:40:35 AM	State Attorney	obj relevance
10:40:43 AM	Tribble	argues
10:40:53 AM	Judge	overruled
10:41:03 AM	Tribble	direct
10:42:19 AM	State Attorney	cross
10:45:00 AM	Tribble	obj, outside of the scope
10:45:09 AM	State Attorney	argues
10:45:11 AM	Tribble	argues
10:45:16 AM	Judge	overruled
10:45:21 AM	State Attorney	cross
10:45:40 AM	Tribble	same objection
10:45:45 AM	Judge	addresses counsel, overruled
10:46:01 AM	State Attorney	cross
10:47:14 AM	Tribble	obj scope
10:47:21 AM	State Attorney	argues
10:47:23 AM	Tribble	argues
10:47:30 AM	Judge	sustained
10:47:47 AM	State Attorney	cross
10:48:39 AM	Judge	witness steps down
10:49:00 AM	Tribble	would like to renew the previous matter
10:49:09 AM	Judge	excuses the panel and admonishes them
10:49:48 AM	Tribble	offer of proof, (Martia Garcia), this is for impeachment purposes,

<u>10:50:58 AM</u>	State Attorney	relevance obj, out side of the scope, not nature to the charge, not notice of witness in discovery, should have known at pre-trial, and witness has been sitting in during the trial.
<u>10:52:20 AM</u>	Tribble	response, came to knowledge on Wednesday, with in ICR 16,
<u>10:53:27 AM</u>	Judge	inquires
<u>10:53:35 AM</u>	Tribble	responds as to 2007
<u>10:53:47 AM</u>	Judge	layout in detail
<u>10:53:53 AM</u>	Tribble	responds
<u>10:53:57 AM</u>	Judge	comments
<u>10:54:04 AM</u>	Tribble	responds
<u>10:54:21 AM</u>	Judge	inquires counsel on embalment
<u>10:54:30 AM</u>	Tribble	response
<u>10:54:46 AM</u>	Judge	sustained the objection, addresses counsel to ID Rule 608
<u>10:55:42 AM</u>	Tribble	ment to say impeachment
<u>10:55:49 AM</u>	Judge	addresses counsel not directly relevant, will not permit to testify
<u>10:56:16 AM</u>	Tribble	no other witness
<u>10:56:29 AM</u>	Judge	counsel has reviewed proposed jury instructions
<u>10:56:48 AM</u>	State Attorney	addresses court,
<u>10:57:33 AM</u>	Judge	addresses counsel
<u>10:57:56 AM</u>	State Attorney	addresses court
<u>10:58:53 AM</u>	Judge	addresses counsel
<u>10:59:01 AM</u>	State Attorney	addresses court
<u>11:00:08 AM</u>	Judge	
<u>11:06:08 AM</u>	Judge	addresses counsel
<u>11:07:07 AM</u>	Judge	will give new jury instruction 810,
<u>11:08:31 AM</u>	State Attorney	addresses court
<u>11:09:33 AM</u>	Judge	addresses counsel
<u>11:09:58 AM</u>	State Attorney	addresses court
<u>11:10:55 AM</u>	Judge	addresses counsel
<u>11:12:58 AM</u>	State Attorney	bring up another issue
<u>11:14:59 AM</u>	Judge	comments
<u>11:16:53 AM</u>	Tribble	addresses court
<u>11:20:01 AM</u>	Judge	comments
<u>11:24:21 AM</u>	State Attorney	argues

11:24:59 AM	Judge	comments
11:25:03 AM	State Attorney	112-805
11:26:09 AM	Judge	comments
11:27:38 AM	State Attorney	comments
11:28:06 AM	Judge	18-407
11:32:02 AM	State Attorney	comments
11:32:37 AM	Judge/counsel	
11:35:49 AM	Judge	we can short recess
11:36:53 AM	Tribble	obj
11:38:07 AM	Tribble	withdrawn, con't obj to instructions
11:39:55 AM	Judge	recess
11:40:02 AM	Judge/counsel	back on record regarding instructions
12:06:21 PM	Tribble	take up motion for acquittal on the grand theft charge, and the other charges should be dismissed, judgment of acquittal on the forgery
12:12:04 PM	Judge	addresses counsel
12:13:31 PM	Tribble	addresses court
12:13:38 PM	State Attorney	addresses court
12:14:48 PM	Judge	agree, comments
12:15:29 PM	State Attorney	con't arguing on rule 29
12:16:51 PM	Tribble	argues
12:18:03 PM	Judge	there's ample evidence for the jury to decide, will deny motions cites idaho supreme court ruling.
12:21:01 PM	Judge	resume at 1:25
12:22:23 PM	Tribble	argues new instruction 9
1:46:46 PM	Judge	that's what the statute says
1:46:55 PM	Tribble	argues the common scheme or plan, cites s.c. case
1:48:35 PM	Judge	you can have moved
1:48:49 PM	Judge	instruction 9(a) follows the language of statute, will not define more fully, will do jury instructions
1:50:27 PM	Judge	jury present
1:50:50 PM	Judge	both sides have rested, jury instructions
2:05:21 PM	State Attorney	closing arguments
2:37:38 PM	Tribble	closing
3:18:00 PM	State Attorney	final closing
3:33:00 PM	Judge	clerk swear in bailiff, crt pick alt juror, jurors sent back for deliberations.

<u>3:35:03 PM</u>	Judge	had question from juror, state was fine with answer, but defense counsel object and inconsistency between 11 & 12
<u>3:35:03 PM</u>	Judge	jury present,
<u>5:39:17 PM</u>	Judge	jury back and reach a verdict, handed to bailiff, handed to court, court to read verdict, grand theft gg, as to forgery gg,
<u>5:40:29 PM</u>	Judge	court to pull the jury, verdict recorded
<u>5:41:29 PM</u>	Judge	psi Ordered , 1/26/15 @ 3pm SH
<u>5:42:30 PM</u>	Judge	thanks the jurors and releases them
<u>5:45:44 PM</u>	State Attorney	reconsider bond
<u>5:45:49 PM</u>	Judge	yes
<u>5:45:52 PM</u>	State Attorney	argues bond, to consider revoke
<u>5:47:02 PM</u>	Tribble	argues bond
<u>5:48:14 PM</u>	Judge	require the defendant psi, increase bond to \$50,000.00

DEC 08 2014

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF IDAHO
CHRISTOPHER D. RICH, Clerk
BY TROY NELSON
DEPUTY

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

ANA GISELLE HERREMAN GARCIA,

Defendant.

Case No. CR-FE-2014-0005550

JURY INSTRUCTIONS

THE HONORABLE DEBORAH A. BAIL
DISTRICT JUDGE
PRESIDING

INSTRUCTION NO. 1

A defendant in a criminal action is presumed to be innocent. This presumption places upon the State the burden of proving the defendant guilty beyond a reasonable doubt. Thus, a defendant, although accused, begins the trial with a clean slate with no evidence against the defendant. If, after considering all the evidence and my instructions on the law, you have a reasonable doubt as to the defendant's guilt, you must return a verdict of not guilty.

A reasonable doubt is not a mere possible or imaginary doubt. It is a doubt based on reason and common sense. It may arise from a careful and impartial consideration of all the evidence, or from lack of evidence. If after considering all the evidence you have a reasonable doubt about the defendant's guilt, you must find the defendant not guilty.

You have now heard all the evidence in the case. My duty is to instruct you as to the law. It is your duty to determine if the state has proven the charge against the defendant beyond a reasonable doubt. You must follow all the rules as I explain them to you in these instructions. You may not follow some and ignore others. Even if you disagree or don't understand the reasons for some of the rules, you are bound to follow them. If anyone states a rule of law different from any I tell you, it is my instruction that you must follow.

INSTRUCTION NO. 2

The original instructions and the exhibits will be with you in the jury room. They are part of the official court record. For this reason please do not alter them or mark on them in any way.

INSTRUCTION NO. 3

As members of the jury it is your duty to decide what the facts are and to apply those facts to the law that I have given you. You are to decide the facts from all the evidence presented in the case.

The evidence you are to consider consists of:

1. sworn testimony of witnesses;
2. exhibits which have been admitted into evidence.

Certain things you have heard or seen are not evidence, including:

1. arguments and statements by lawyers. The lawyers are not witnesses. What they say in their opening statements, closing arguments and at other times is intended to help you interpret the evidence, but is not evidence. If the facts as you remember them differ from the way the lawyers have stated them, follow your memory;
2. anything you may have seen or heard when the court was not in session.

INSTRUCTION NO. 4

The key part of your job as jurors is to decide how credible or believable each witness, including the defendant, was. This is your job, not mine. It is up to you to decide if a witness's testimony was believable, and how much weight you think it deserves. You are free to believe everything that a witness said, or only part of it, or none of it at all. But you should act reasonably and carefully in making these decisions.

As you weigh the testimony, you can ask yourselves questions:

(A) Was the witness able to clearly see or hear the events? Sometimes even an honest witness may not have been able to see or hear what was happening, and may make a mistake.

(B) How good was the witness's memory?

(C) Was there anything else that may have interfered with the witness's ability to perceive or remember the events?

(D) How did the witness act while testifying? Did the witness appear honest or not?

(E) Did the witness have any relationship to the state or the defendant, or anything to gain or lose from the case, that might influence the witness's testimony? Ask yourself if the witness had any bias, or prejudice, or reason for testifying that might cause the witness to lie or to slant the testimony in favor of one side or the other.

(F) How believable the witness's testimony was in light of all the other evidence? Was the witness's testimony supported or contradicted by other evidence that you found believable? If you believe that a witness's testimony was contradicted by other evidence, remember that people sometimes forget things, and that even two honest people who witness the same event may not describe it exactly the same way.

These are only some of the things that you may consider in deciding how believable each witness was. You may also consider other things that you think shed some light on the witness's believability. Use your common sense and your everyday experience in dealing with other people. And then decide what testimony you believe, and how much weight you think it deserves.

INSTRUCTION NO. 5

Each count charges a separate and distinct offense. You must decide each count separately on the evidence and the law that applies to it, uninfluenced by your decision as to any other count.

INSTRUCTION NO 6

Evidence may be either direct or circumstantial. The law makes no distinction between direct and circumstantial evidence. Each is accepted as a reasonable method of proof and each is respected for such convincing force as it may carry.

Direct evidence is evidence that directly proves a fact, like testimony from a witness who saw or heard something. Circumstantial evidence is evidence that indirectly proves the fact, by proving one or more facts from which the fact at issue may be inferred. For example, if you see it snowing, you have direct evidence that it has snowed. If you go to bed and wake up and see the ground covered with snow, you have circumstantial evidence that it has snowed even though you did not watch it happen.

INSTRUCTION NO. 7

In order for the defendant to be guilty of Grand Theft as charged in Count I, the State must prove each of the following:

1. On or between March 9, 2009 and October 31, 2011
2. in the state of Idaho
3. the defendant ANA GISELLE HERREMAN GARCIA
4. wrongfully took cash, lawful money of the United States,
5. from the owner, A & A Landscape
6. with the intent to appropriate the property to herself, and
7. the property exceeded one thousand dollars (\$1000) in value.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

INSTRUCTION NO. 8

The phrase "intent to appropriate" means:

- a. The intent to exercise control over property, or to aid someone other than the owner to exercise control over it, permanently or for so extended a period of time or under such circumstances as to acquire the major portion of its economic value or benefit; or
- b. The intent to dispose of the property for the benefit of oneself or someone other than the owner.

INSTRUCTION NO. 9A

When any series of thefts, comprised of individual thefts having a value of one thousand dollars (\$1,000) or less, are part of a common scheme or plan, the thefts may be aggregated in one (1) count and the sum of the value of all of the thefts shall be the value considered in determining whether the value exceeds one thousand dollars (\$1,000). Evidence of a common scheme or plan may be direct or circumstantial.

INSTRUCTION NO. 9B

If your unanimous verdict is that the defendant is not guilty of Grand Theft, you must find her not guilty of that charge. In that event, you must next consider the included offense of Petit Theft.

In order for the defendant to be guilty of Petit Theft, the State must prove each of the following:

1. On or between March 9, 2009 and October 31, 2011
2. in the state of Idaho
3. the defendant ANA GISELLE HERREMAN GARCIA
4. wrongfully took cash, lawful money of the United States,
5. from the owner, A & A Landscape
6. with the intent to appropriate the property to herself

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

INSTRUCTION NO. 10

An "owner" of property is any person who has a right to possession of such property superior to that of the defendant.

INSTRUCTION NO. 11

In order for the defendant to be guilty of Forgery as charged in Count Two, the State must prove each of the following:

1. On or between August 8, 2010 and November 3, 2010
2. in the state of Idaho
3. the defendant ANA GISELLE HERREMAN GARCIA
4. with the intent to defraud A & A Landscape LLC.
5. falsely made, altered, or forged a written instrument, check # 5008 on the account of Mukesh Mittal and Manisha Mittal payable to A & A Landscape LLC in the amount of \$652.01 and/or check #581 on the account of Terra Nativa Homeowners Association in the amount of \$1,875.00 payable to A & A Landscape by adding Ana Garcia to the "Pay to Order of" section of the check knowing the same to be false, altered, or forged with the intent to prejudice, damage, or defraud any person.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

INSTRUCTION NO. 12

Under Idaho law, every person who, with intent to defraud another, falsely makes, alters, forges or counterfeits, any check or utters, publishes, passes, or attempts to pass, as true and genuine any forged check knowing the same to be false, altered, forged, or counterfeited, with intent to prejudice, damage, or defraud any person is guilty of forgery.

INSTRUCTION NO. 13

An intent to defraud is an intent to deceive another person for the purpose of gaining some material advantage over that person or to induce that person to part with property or to alter that person's position to the injury or risk of the person, and to accomplish that purpose by some false statement, false representation of fact, wrongful concealment or suppression of truth, or by any other artifice or act designed to deceive.

INSTRUCTION NO. 14

Do not concern yourself with the subject of penalty or punishment. That subject must not in any way affect your verdict. If you find the defendant guilty, it will be my duty to determine the appropriate penalty or punishment.

INSTRUCTION NO. 15

I have outlined for you the rules of law applicable to this case and have told you of some of the matters which you may consider in weighing the evidence to determine the facts. In a few minutes counsel will present their closing remarks to you, and then you will retire to the jury room for your deliberations.

The attitude and conduct of jurors at the beginning of your deliberations are important. It is rarely productive at the outset for you to make an emphatic expression of your opinion on the case or to state how you intend to vote. When you do that at the beginning, your sense of pride may be aroused, and you may hesitate to change your position even if shown that it is wrong. Remember that you are not partisans or advocates, but are judges. For you, as for me, there can be no triumph except in the ascertainment and declaration of the truth.

As jurors you have a duty to consult with one another and to deliberate before making your individual decisions. You may fully and fairly discuss among yourselves all of the evidence you have seen and heard in this courtroom about this case, together with the law that relates to this case as contained in these instructions. You should feel free to re-examine your own views and change your opinion if you are convinced by your discussion with your fellow jurors that your original opinion was incorrect based upon the evidence that you as jurors saw and heard during the trial.

Consult with one another. Consider each other's views, and deliberate with the objective of reaching an agreement, if you can do so without disturbing your individual judgment. Each of you must decide this case for yourself; but you should do so only after a discussion and consideration of the case with your fellow jurors.

INSTRUCTION NO. 16

If it becomes necessary during your deliberations to communicate with me, you may send a note signed by one or more of you to the bailiff. You should not try to communicate with me by any means other than such a note.

During your deliberations, you are never to reveal to anyone how the jury stands on any of the questions before you, numerically or otherwise, unless requested to do so by me.

INSTRUCTION NO. 17

Upon retiring to the jury room, select one of you as a presiding juror, who will preside over your deliberations. It is that person's duty to see that discussion is orderly; that the issues submitted for your decision are fully and fairly discussed; and that every juror has a chance to express himself or herself upon each question. Nothing is more important than jurors approaching deliberations in a careful, respectful way. Listen to each other. Share your views with each other. You and you alone are the judges of the facts.

In this case, your verdict must be unanimous. When you all arrive at a verdict, the presiding juror will sign it and you will return it into open court.

Your verdict in this case cannot be arrived at by chance, by lot, or by compromise. A verdict form suitable to any conclusion you may reach is submitted to you with these instructions.

DATED This 5th day of December, 2014.

A handwritten signature in black ink, appearing to read 'Deborah A. Bail', written over a horizontal line.

DEBORAH A. BAIL
District Judge

DEC 08 2014

CHRISTOPHER D. RICH, Clerk
By RIC NELSON
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

ANA GISELLE HERREMAN GARCIA,

Defendant.

Case No. CR-FE-2014-0005550

VERDICT

As to the offense of GRAND THEFT, we, the jury, find the Defendant, ANA GISELLE
HERREMAN GARCIA:

GUILTY

X

NOT GUILTY

DATE

12/5/14

PRESIDING JUROR

Kris Kamann

DEC 08 2014

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF IDAHO
CHRISTOPHER D. RICH, Clerk
ERIC NELSON
DEPUTY

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

ANA GISELLE HERREMAN GARCIA,

Defendant.

Case No. CR-FE-2014-0005550

VERDICT

As to the offense of FORGERY, we, the jury, find the Defendant, ANA GISELLE
HERREMAN GARCIA:

GUILTY

X

NOT GUILTY

DATE

12/5/14

PRESIDING JUROR

Kris Kamann

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA.

THE STATE OF IDAHO,
Plaintiff,

vs.

HERREMAN-GARCIA ANA GISELLE
Defendant

NO. _____ FILED _____
A.M. _____ P.M. 5-

NOTICE OF COURT DATE
AND DEC 08 2014

BOND RECEIPT
CHRISTOPHER D. RICH, Clerk
By MARSHA ROBINSON
DEPUTY

YOU ARE HEREBY NOTIFIED that you must appear in Court
on 26 January 2015 at 03:00PM hrs, at the:

✓
Ada County Courthouse
200 West Front Street
Boise, 83702

If you have been arrested for a Citation, This Notice of Court Date Supersedes any other Court Date for this case. If you have been given a date by the court you must keep those appearances, failing to do so will cause a warrant for arrest and forfeiture of bond.

You are further notified that if you fail to appear as specified herein, your bond will be forfeited and a Warrant of Arrest will be issued against you.

If you are on supervised probation, you must notify your probation officer of your arrest within 24 hours or one business day.

BOND RECEIPT No: 1271142

Charge: Return to Custody on CRFE20140005550 Def 1

Bond Amount: \$ 50,000.00

Case # CRFE20140005550

Arrest: {F} Grand Th

Bond # S50 02204877

Bond Type: Surety

Warrant #:


Agency: Credit Bail Bonds

Insurance: Seneca Insurance Co.

Bondsman: ALMARAZ AMY

Address: PO Box 123

Homedale, ID 83628

 This is to certify that I have received a copy of this NOTICE TO APPEAR.
I understand that I am being released on the conditions of posting bail and
my promise to appear in the court at the time, date, and place described in this notice.

DATED: 12/5/2014


DEFENDANT

TIME RECEIVED

December 19, 2014 11:36:56 AM MST

REMOTE CSID

9389504

DURATION

49

PAGES

2

STATUS

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Dec. 19. 2014 11:40AM

Law Office

No. 4877

P. 1/2

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DEC 19 2014

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

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Aaron J. Tribble ISB#8951
Eagle Law Center
1191 E. Iron Eagle Dr.
Suite 200
Eagle, ID 83616
T: 208-938-9500
F: 208-938-9504
E: aaron@eaglelawcenter.com

Attorney for Defendant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,

Plaintiff,

vs.

GISELLE HERREMAN,

Defendant.

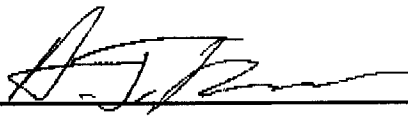
CASE NO. CR-FE-2014-0005550

**MOTION FOR JNOV AND MOTION
FOR NEW TRIAL**

The Defendant, ANA GISELLE HERREMAN GARCIA, by and through her attorneys, move this Court to enter Judgment Not Withstanding the Verdict pursuant to I.C.R. 29(c), and in the alternative, order a new trial pursuant to I.C.R. 34. This motion made pursuant to Idaho Criminal Rules 29(c) and 34 and is based upon a *Memorandum in Support of Motion for JNOV and Motion for New Trial*, and upon the records, transcripts, and pleadings filed herein.

MO

1 DATED this 19th day of December, 2014.

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4 Aaron J. Tribble

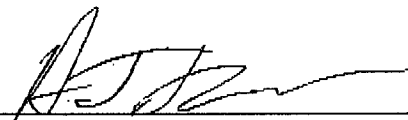
5 *Attorney for Defendant*

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11 **CERTIFICATE OF SERVICE**

12
13 I HEREBY CERTIFY that on this 19th day of December, 2014, I caused a true and
14 correct copy of the foregoing document to be served by the method indicated below, and
15 addressed to the following:

16 Ada County Prosecutor's Office
17 200 W. Front Street Room 3191
18 Boise, ID 83702
19 Fax: 208-287-7709

() U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
(X) Facsimile

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21 

22 Aaron J. Tribble

23 *Attorney for Defendant*

TIME RECEIVED

December 19, 2014 11:40:11 AM MST

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DURATION

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Dec. 19. 2014 11:41AM Law Office

No. 4878 P. 1/7

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FILED

A.M.

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DEC 19 2014

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

Aaron J. Tribble ISB#8951
Eagle Law Center
1191 E. Iron Eagle Dr.
Suite 200
Eagle, ID 83616
T: 208-938-9500
F: 208-938-9504
E: aaron@eaglelawcenter.com

Attorney for Defendant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

GISELLE HERREMAN,

Defendant.

CASE NO. CR-FE-2014-0005550

MEMORANDUM IN SUPPORT OF
MOTION FOR JNOV AND MOTION
FOR NEW TRIAL

The Defendant, ANA GISELLE HERREMAN GARCIA, by and through her attorneys,
supports her motion with the following:

JUDGMENT NOT WITHSTANDING THE VERDICT

Ms. Garcia was found guilty by a jury on counts of Grand Theft (I.C. § 18-2407(1)(b))
and Forgery (I.C. § 18-3601) on December 5, 2014. However, both counts were critically
deficient of evidence in key elements of the crime. These deficiencies require the Court to set

1 aside the jury's verdict and enter a judgment of acquittal.

2 With a motion for judgment notwithstanding the verdict, the test under I.C.R. 29 is
3 whether the evidence is sufficient to sustain a conviction of the offense or offenses charged. *State*
4 *v. Holder*, 100 Idaho 129 (1979). The test of sufficiency of the evidence to sustain a conviction is
5 whether there is substantial evidence upon which rational triers of facts could find guilty beyond a
6 reasonable doubt. *State v. Barlow*, 113 Idaho 573 (Ct. App. 1987).

7 **FORGERY.** In the Information filed July 21, 2014, Ms. Garcia was accused of forging
8 the checks at issue in this case. At trial however, the State presented absolutely no evidence of
9 *where* the check was forged or altered. Indeed, evidence was presented tending to show that the
10 two checks were negotiated in the State of Idaho, however, the State simply presented zero
11 evidence of the location of where the check was altered. In element #2 of jury instruction #11,
12 the state is required to prove beyond a reasonable doubt that the forging of the check occurred in
13 the State of Idaho. For all the jury knows, this forging could have been accomplished in Ontario,
14 Oregon, and the check could have been taken back to Idaho for deposit. The fact is, the jury can't
15 return a verdict on this element because they had no evidence presented to them of the location of
16 the forging. As such, the Defendant requests that this Court set aside the jury's verdict and enter a
17 judgment of acquittal on the count of Forgery.

18 Also, the prosecution presented little to no competent evidence related to the identity of
19 the person(s) that actually forged the name on the pay line on the checks at issue. In fact,
20 Detective Spain admitted on the stand that he assumed that Ms. Garcia had written her name on
21 the pay line. Detective Spain admitted that no handwriting analysis was done to determine the
22 identity of the person who altered the pay line. There was no expert opinions offered to the jury
23 to help establish the identity of the person who altered the check. Essentially, the jury was left
24 only with a scintilla of evidence and the *assumption* that whoever cashed the check must have
25 forged the check. A conviction must be based on either direct or indirect evidence, not on
26 assumptions. Given the evidence presented, the jury here could only have convicted based on
27 assumptions, not on substantial evidence where a rational trier of fact would find guilt beyond a
28 reasonable doubt. As such, the Defendant requests that this Court set aside the jury's verdict and

1 enter a judgment of acquittal on the count of Forgery.

2 **GRAND THEFT.** The test for aggregation is whether the amounts were obtained
3 pursuant to a common scheme or plan that reflected a single, continuing larcenous impulse or
4 intent. *State v. Morrison*, 143 Idaho 459 (Ct. App. 2006). In this case, the State has charged one
5 count of grand theft, yet has presented evidence of perhaps hundreds of separate alleged incidents
6 of theft. The jury was instructed to aggregate the amounts of the thefts where there was a
7 common scheme or plan that connected them. Counsel for the State, in open court, admitted that
8 he did not present evidence of a common scheme or plan. In fact, the evidence very clearly
9 shows that there were as many as 4-6 different schemes or plans in play. Debit cards are alleged
10 to have been used to (1) withdraw cash and (2) purchase goods and services, checks were alleged
11 to have been (3) unauthorized, (4) duplicated, (5) resulting from time card fraud, and (6) forged
12 from the payee line. Yet at closing argument, counsel for the State argued that all of this was part
13 of a common plan or scheme for Ms. Garcia to use her position to fleece A&A Landscaping. In
14 ruling on the meaning of the word "plan", the Idaho Court of Appeals has said that a desire for
15 money cannot be considered a unifying plan. *State v. Bussard*, 114 Idaho 781 (Ct. App. 1988).
16 The State's argument at closing of trial is little more than what was mentioned in *Bussard*. The
17 State basically argued that Ms. Garcia's plan was to take money from her employer. The
18 evidence of a common plan or scheme was so little and scant that no rational trier of fact could
19 possibly conclude that there was a common scheme or plan found beyond a reasonable doubt. As
20 such, the Defendant requests that this Court set aside the jury's verdict and enter a judgment of
21 acquittal on the count of Grand Theft.

22 23 **MOTION FOR NEW TRIAL**

24 On motion within 14 days of the verdict of a jury, a court may grant a new trial to the
25 defendant if required in the interests of justice.

26 **FORGERY.** Ordinarily, a party may not claim a jury instruction was erroneous unless
27 the party objected to the instruction prior to the start of the jury deliberations. *State v. Hadden*,
28 152 Idaho 371 (2012). However, even absent a timely objection to the trial court, a narrow

1 exception exists for those issues rising to the level of fundamental error. The Idaho Supreme
2 Court has clarified the fundamental error doctrine applicable where an alleged error was not
3 followed by a contemporaneous objection. Such review includes a three-pronged inquiry wherein
4 the defendant bears the burden of persuading the court that the alleged error (1) violates one or
5 more of the defendant's unwaived constitutional rights, (2) plainly exists and (3) was not
6 harmless. *Id.*

7 In this case, the jury was instructed on the elements of forgery in jury instruction #11.
8 This instruction was carefully crafted to select the language "falsely made, altered, or forged"
9 because such language tracked the language in the Information filed July 21, 2014. However, in
10 instruction #12, the jury was instructed with the words "utters, publishes, passes, or attempts to
11 pass, as true and genuine any forged check knowing the same to be false, altered, forged, or
12 counterfeited." These words in instruction #12, while a true statement of the law, were not
13 reflective of the charges being leveled against Ms. Garcia. Ms. Garcia was being accused of
14 forging a check, not passing a check.

15 If a jury expresses doubt or confusion on a point of law correctly and adequately covered
16 in a given instruction, the trial court in its discretion may explain the given instruction or further
17 instruct the jury but it is under no duty to do so. *State v. Pinkney*, 115 Idaho 1152 (Ct. App.
18 1989). However, if a jury makes explicit its difficulties with a point of law pertinent to the case,
19 thereby revealing a defect, ambiguity or gap in the instructions, then the trial court has the duty to
20 give such additional instructions on the law as are reasonably necessary to alleviate the jury's
21 doubt or confusion. *Id.*

22 In this case, the jury did return a question concerning the apparent ambiguity in jury
23 instructions #11 and #12, the elements of forgery and the general definition. Essentially, the jury
24 asked which definition of forgery they should apply; the forging or the passing. Because the jury
25 was struggling with this apparent ambiguity or defect, the Court was under a duty to give
26 additional instructions to alleviate the jury's confusion. No additional instructions were given.
27 This error resulted in a violation of Ms. Garcia's right to due process and a fair trial because the
28 jury was instructed on something that Ms. Garcia was not charged; the error plainly existed; and

1 the error was harmful because the jury could have used evidence of passing to convict Ms.
2 Garcia. As such, the Defendant requests that this Court set aside the jury's verdict and order a
3 new trial on the count of Forgery because the interests of justice require it.

4 **GRAND THEFT.** The charge in the Information filed July 21, 2014, concerned the theft
5 of "cash" money. Yet the jury was allowed to see evidence of many types of theft, other than just
6 the cash transactions at the ATM's. In addition, the different modes of theft did not share a
7 "common scheme or plan" as required when individual thefts are to be aggregated. The jury saw
8 evidence of checks that were allegedly taken, unauthorized, falsified, or the result of bad
9 timecards. All of these transactions had nothing to do with actual cash money. In addition, ATM
10 transactions were made which involved the taking of goods and service, not cash money. In a
11 very broad sense, the jury was allowed to see a evidence of a multitude of thefts occurring under
12 multiple schemes and plans, but was only presented with one charge for grand theft. This makes
13 most of the evidence presented at trial garden-variety propensity evidence under I.R.E. 404,
14 because the evidence did not pertain to the "common scheme or plan" of taking actual cash
15 money. Indeed the evidence was all objected to as 404(b) inadmissible because it was propensity
16 evidence and no notice was filed saying anything to the contrary.

17 In addition, the jury instructions gave carte blanche to the jury to determine the meaning
18 of "common scheme or plan." However the Idaho Supreme Court has already given indications
19 of what is not a "common scheme or plan." See *State v. Bussard*, 114 Idaho 781 (Ct. App. 1988).
20 The jury should have at least been instructed that the meaning of "common scheme or plan" had
21 some threshold minimum, otherwise the possibility exists that the jury could apply any arbitrary
22 and unlawful definition that it chooses. In closing, the state argued for an unlimited view of the
23 phrase by arguing that simply using one's position as a bookkeeper is a "common scheme or
24 plan." The evidence showed otherwise, but the jury had no instruction to the point. This could
25 very well have contributed to the verdict.

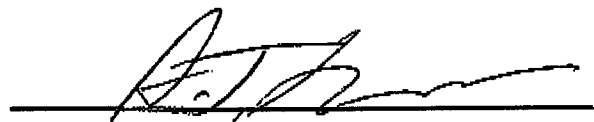
26 Moreover, the jury was allowed to consider objected-to testimony from the Defendant
27 herself concerning material that was well outside the scope of any question propounded by the
28 Defendant's attorney. This is a violation of I.R.E. 611(b). This also has harmed the Defendant

1 because the jury was allowed to consider information that it ought not have.

2 Where a constitutional violation occurs at trial, and a contemporaneous objection occurs, a
3 reversal is necessitated unless the State proves beyond a reasonable doubt that the error
4 complained of did not contribute to the verdict obtained. *Chapman v. California*, 386 U.S. 18, 24
5 (1967). In Idaho, this standard is applied to all objected-to error. See *State v. Thompson*, 132
6 Idaho 628, 636 (1999). In this case, the failure to instruct the jury on the bounds of the phrase
7 "common scheme or plan" could very well have been the basis the jury used to reach their
8 decision. The State has no way to prove otherwise beyond a reasonable doubt. Also, allowing
9 the jury to see so much propensity evidence that in no way is part of a "common scheme or plan"
10 to take cash money from A&A Landscaping, is also extremely prejudicial. All of this was
11 contemporaneously objected to at trial, so reversal and a new trial is warranted.

12 Even if no singular irregularity is found to warrant a new trial, these errors combined have
13 produced a denial of due process under the cumulative error doctrine. The cumulative error
14 doctrine "refers to an accumulation of irregularities, each of which by itself might be harmless,
15 but when aggregated, the errors show the absence of a fair trial, in contravention of the
16 defendant's constitutional right to due process." *State v. Peite*, 122 Idaho 809, 822 (Ct.App.1992).
17 Clearly these errors combined show a lack of due process in admitting so much irrelevant
18 evidence and not properly instructing the jury. For these reasons, the Defendant requests a new
19 trial on the count of Grand Theft.

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21
22 DATED this 19th day of December, 2014.

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25 Aaron J. Tribble


26 *Attorney for Defendant*

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7 **CERTIFICATE OF SERVICE**
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9 I HEREBY CERTIFY that on this 19th day of December, 2014, I caused a true and
10 correct copy of the foregoing document to be served by the method indicated below, and
11 addressed to the following:

12 Ada County Prosecutor's Office
13 200 W. Front Street Room 3191
14 Boise, ID 83702
Fax: 208-287-7709

() U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
(X) Facsimile

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18 Aaron J. Tribble

19 *Attorney for Defendant*
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JAN - 6 2015

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

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3pm
JAN M. BENNETTS
Ada County Prosecuting Attorney

Kai E. Wittwer
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, ID 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2014-0005550
vs.)	
)	
ANA GISELLE HERREMAN GARCIA,	)	STATE'S MEMORANDUM IN
	)	OPPOSITION TO DEFENDANT'S
	)	MOTION FOR JNOV (JUDGMENT OF
Defendant.	)	ACQUITTAL) AND MOTION FOR
	)	NEW TRIAL
)	

COMES NOW, Kai E. Wittwer, Deputy Prosecuting Attorney for the County of Ada, State of Idaho, and submits the following State's Memorandum in opposition to the Motion for JNOV and Motion for New Trial filed by the Defendant on or about December 19, 2014.

PROCEDURAL BACKGROUND

The State initially charged the Defendant by a Complaint filed on April 21, 2014, alleging one count of Grand Theft, a felony. Thereafter on July 17, 2014, the State filed an Amended Complaint alleging three separate counts: Grant Theft, Forgery and Criminal Possession of a Financial Transaction Card. The case proceeded to a preliminary hearing on that same day, and at

the conclusion of the hearing the magistrate found probable cause on the Grand Theft and Forgery charges only. An Information was filed on July 21, 2014, and the Defendant was arraigned in the District Court on the Information on July 28, 2014. She also entered pleas of not guilty on that date and the case was set for a jury trial to commence on October 21, 2014.

At the pre-trial conference held on October 6, 2014, the State moved for a continuance of the trial to allow the State additional time to obtain and disclose additional bank records. The Court granted the State's motion and the trial was rescheduled to commence on December 2, 2014. The case then proceeded to trial as scheduled, and on December 5, 2014, the jury returned verdicts finding the Defendant guilty of Grand Theft and Forgery. The sentencing hearing has been scheduled for January 26, 2014. The Defendant now has filed a Motion for JNOV and Motion for New Trial as to both charges of which the Defendant was convicted.

ARGUMENT

I. Defendant's Motion for Judgment of Acquittal

The Defendant characterizes her motion as a motion for judgment notwithstanding the verdict. The applicable Idaho Criminal Rule is Rule 29, which governs motions for judgment of acquittal. Rule 29(a) states that "[t]he court on motion of the defendant . . . shall order the entry of judgment of acquittal . . . after the evidence on either side is closed if the evidence is insufficient to sustain a conviction" Rule 29(c) further states that "[i]f the jury returns a verdict of guilty . . . a motion for judgment of acquittal may be made or renewed within fourteen (14) days after the jury is discharged If a verdict of guilty is returned the court may, on such motion, set aside the verdict and enter judgment of acquittal."

The test of sufficiency of the evidence that the trial court is to apply is "whether there is substantial evidence upon which rational triers of fact could find guilt beyond a reasonable doubt."

State v. Barlow, 113 Idaho 573, 580 (Ct. App. 1987). When deciding a motion for judgment of acquittal under Rule 29, the trial court judge “must review the evidence in the light most favorable to the state, recognizing that full consideration must be given to the right of the jury to determine the credibility of witnesses, the weight to be afforded evidence, as well as the right to draw all justifiable inferences from the evidence.” *State v. Huggins*, 103 Idaho 422, 427 (Ct. App. 1982).

In this case, the Defendant moved for a judgment of acquittal under Rule 29 following the close of the evidence, and the Court denied the motion. She now has renewed her Rule 29 motion requesting a judgment of acquittal be entered on both the Grand Theft and Forgery charges. The Court should deny the Defendant’s motion as to both charges. At trial the State presented substantial evidence as to each material element of the charges upon which rational triers of fact could—and upon which the actual trial jury did—find guilt beyond a reasonable doubt.

GRAND THEFT

As to Count I of the Information, Grand Theft, the Defendant was charged with wrongfully taking cash, lawful money of a value exceeding \$1000 from the victim A&A Landscape on or between certain dates. The State at trial presented evidence of many discrete acts of theft between the dates specified from the same victim, with the aggregate value of the money taken exceeding \$1000 in value. The Court instructed the jury as to the elements of Grand Theft, including that that the State had to prove beyond a reasonable doubt that the Defendant wrongfully took cash, lawful money of the United States and that it exceeded \$1000 in value. (See Jury Instr. 7.) The Court further instructed the jury that “[w]hen any series of thefts, comprised of individual thefts having a value of one thousand dollars (\$1000) or less, are part of a common scheme or plan, the thefts may be aggregated in one (1) count and the sum of the

value of all of the thefts shall be the value considered in determining whether the value exceeds one thousand dollars (\$1000).” (Jury Instr. 9.)

The Defendant apparently only takes issue with the sufficiency of the evidence presented on the Grand Theft charge as it relates to a common scheme or plan.¹ The Court of Appeals of Idaho has stated that “[t]he test for aggregation is whether the amounts were obtained pursuant to a common scheme or plan that reflected a single, continuing larcenous impulse or intent.” *State v. Morrison*, 143 Idaho 459, 462 (Ct. App. 2006) (citing *State v. Lloyd*, 103 Idaho 382, 383 (1982)). The court in *Lloyd* further pointed out that whether property was stolen pursuant to a common scheme or plan is a decision for the jury to make. *Lloyd*, 103 Idaho at 383.

In this case, the State presented to the jury abundant evidence of a common scheme or plan reflecting a continuing larcenous impulse or intent on the part of the Defendant. The State proved and argued to the jury that the Defendant accomplished her crime by abusing her unique position of trust as the office manager at A&A Landscape in Boise to steal thousands of dollars over an extended period of time, beginning practically from the time she first was hired by the company. Although it could be said that there were multiple methods of theft, all of the Defendant’s conduct was part of a more or less consistent and ongoing scheme to embezzle funds from her employer which was accomplished only by virtue of her unique position within the business. The methods of theft utilized by the Defendant—including unauthorized and excessive paychecks, other unauthorized checks and use of the company debit card—were not,

¹ The Defendant’s Memorandum alleges that the prosecutor, in open court, admitted that he did not present evidence of a common scheme or plan. At the time of preparing this Memorandum in response to the Defendant’s motion the State has not had the benefit of being able to review a transcript or recording of the trial proceedings. However, the undersigned deputy prosecuting attorney—who tried the case for the State—does not recall conceding ever that there was not evidence presented of a common scheme or plan. To the contrary, the undersigned recalls first arguing to the Court when presented with the Defendant’s oral Rule 29 motion that there was evidence of a common scheme or plan, and then arguing the same to the jury during closing arguments.

therefore, as characterized by the defense, simply unrelated schemes or plans but rather different ways of carrying out her overarching and continuing intent to embezzle her employer's money.²

It is worth emphasizing that although Idaho law no longer recognizes a separate offense of embezzlement (see I.C. § 18-2401(1)), embezzlement-type conduct may be charged as theft, as it was in this case. Embezzlement by its very nature quite often involves schemes or plans—which may vary greatly in their complexity and sophistication—executed by the embezzler to wrongfully convert the entrusted funds and allow her to steal over a period of time without being found out. Such is the case before the Court. This is seen perhaps most starkly in the evidence presented to the jury of how the Defendant time and again prepared paychecks for herself including payment for hours that she did not work and extra paychecks purporting to be for pay periods for which she already had received a paycheck (summarized in State's Exhibit 10).³ But more generally, she was trusted by her employer and she used her position of trust and special access to the company checks and debit card, combined with a general lack of oversight of her activities, to wrongfully take the company's money. The consistent and repetitive nature of her theft, and the fact that she accomplished it *all* through her unique position of trust, are strong evidence of a common scheme or plan. Considering the evidence presented in the light most favorable to the State, deferring to the jury's right to draw all justifiable inferences (and recognizing that the jury did in fact return a unanimous guilty verdict), and recognizing that

² The Defendant argues in her memorandum that the State presented and argued to the jury "little more" in the way of a common scheme or plan than a "desire for money" and argues that a mere desire for money cannot be considered a unifying plan. As authority for this position she cites to *State v. Bussard*, 114 Idaho 781 (Ct. App. 1988). The State, as explained in this Memorandum, proved to the jury much more of a unifying scheme than a mere desire for money. But it should also be made clear that the holding in *Bussard* has nothing to do with the definition of "common scheme or plan" as it relates to the crime of Grand Theft. *Bussard's* discussion of a common scheme or plan relates strictly to I.R.E. 404(b), and the court simply "decline[d] to hold that a desire for money is a unifying "plan" within the meaning of Rule 404(b)." *Id.* at 786.

³ By this method of theft alone the Defendant stole over \$9000 of money from her employer, which of course is an amount of loss sufficient by itself to sustain a conviction for Grand Theft.

whether property was stolen pursuant to a common scheme or plan is a decision for the jury to make, the Court should find that a rational trier of fact could find guilt beyond a reasonable doubt and deny the Defendant's motion for judgment of acquittal on the Grand Theft charge.

FORGERY

In Count II of the Information the Defendant was charged with Forgery, for adding "Ana Garcia" to the payee section of two checks which originally had been made payable only to A&A Landscape. The Defendant claims the evidence at trial was insufficient as it relates to the location of the offense and the identity of the person who altered the checks. The Defendant's arguments fail on both grounds.

The State presented evidence to the jury that the office of the victim-business was located in Boise, Ada County, Idaho, and that was where the Defendant did her work. The jury heard testimony that the Defendant, as the office manager, was the one who was responsible for handling, processing and recording the customer payment checks that were delivered or were brought into the office in Boise. As the Defendant acknowledges, evidence also was presented that tended to show that the two checks at issue were actually negotiated by the Defendant in Idaho. Thus, all of the evidence presented to the jury about the Defendant's work-related activities and specifically her handling and processing of customer payment checks like the two at issue in the Forgery charge lead to the conclusion that those activities occurred in Boise, Idaho. The only reasonable conclusion based on the evidence, therefore, is that the checks were forged and altered here in Boise, Idaho.

The State also presented sufficient evidence as to the identity of the perpetrator of the forgery. First and foremost, the jury heard testimony that Ana Garcia is a name by which the Defendant has been known. Indeed, the Defendant in this case is identified as Ana Giselle

Herreman Garcia. So the Defendant's own name was the one added to these checks. Second, the testimony at trial established that the check issuers did not add the name to the checks and they gave no one authorization to alter their checks. The business owners' testimony also established that the Defendant had no right to the checks, so they would not have added her name. No one had authorization to add "Ana Garcia" to the checks, but the Defendant was the one who had access to and was responsible for handling and processing the checks once they came into the office. Third, the jury received conclusive evidence that the two altered checks at issue were deposited into the Defendant's bank account, thus significantly strengthening the factual inference that the Defendant was the one who forged and altered the checks. Indeed, it is not reasonable to believe that there was yet someone else involved who handled the checks, added the name and then deposited the checks into the Defendant's account. In short, from the evidence presented the only reasonable conclusion is that the Defendant in fact was the person who committed the forgery.

Considering the evidence presented in the light most favorable to the State and recognizing the jury's right to weigh the evidence and draw all justifiable inferences (and again recognizing that the jury in fact returned a unanimous guilty verdict), the Court should find that a rational trier of fact could find guilt beyond a reasonable doubt and should deny the Defendant's motion for judgment of acquittal on the Forgery charge.

II. Defendant's Motion for a New Trial

Under I.C.R. 34 the court may grant a new trial on motion of the defendant "if required in the interest of justice." A motion for new trial for any reason other than newly discovered evidence may be made at any time within fourteen (14) days after verdict.

A trial court has wide discretion to grant or refuse to grant a motion for a new trial. *State v. Cantu*, 129 Idaho 673, 674 (1997). That discretion, however, is limited; “I.C. Section 19-2406 sets forth the only grounds permitting the grant of a new trial and, therefore, limits the instances in which the trial court’s discretion may be exercised.” *Id.* at 675.

GRAND THEFT

The Defendant’s memorandum does not specify upon which of the grounds listed in section 19-2406 she bases her motion for a new trial on the Grand Theft charge. She raises several issues; based upon a liberal reading of the Defendant’s arguments, and for the sake of responding to those arguments, the State will assume that the asserted grounds for a new trial are either that the Court “misdirected the jury in a matter of law, or has erred in the decision of any question of law arising during the course of the trial”, or that “the verdict is contrary to law or evidence.” I.C. § 19-2406(5.), (6.).

The Defendant first argues that, though the Information charged the Defendant with theft of cash, the jury improperly heard evidence of many types of theft aside from thefts of “cash” money. This argument appears to be based upon an assumption that the Defendant stood accused only of stealing actual U.S. currency. The Defendant’s argument is misplaced and takes a much too narrow view of the meaning of the term “cash.” The term “cash” is very commonly used in English to describe not just actual ready currency but cash or money equivalents such as checks. Indeed, cash can be defined as “ready money” or “*money or its equivalent* (as a check) paid for goods or services at the time of purchase or delivery.” Merriam-Webster Dictionary, <http://www.merriam-webster.com/dictionary/cash> (last accessed on Jan. 2, 2015) (emphasis added). The term also is commonly and simply understood to denote a form of money or assets distinct from credit.

The State at trial presented evidence that the Defendant stole by withdrawing cash from the victim's bank account using a debit card; by making purchases for goods and services using a debit card directly connected to the money in the victim's bank account; by writing and depositing into her bank account paychecks and other checks; and by depositing forged checks into her bank account. All of these methods of theft related to the Defendant's wrongful taking of the victim's cash or money and would reasonably and commonly be considered within the purview of an accusation that she wrongfully took cash money. She was not accused of actually stealing the checks themselves or stealing the debit card, which would form a different basis for a Grand Theft charge, but rather she was accused of stealing cash money funds from the victim through the issuance of the checks or the use of the card. Additionally, the Defendant was provided with numerous and detailed documents and reports through pre-trial discovery that fleshed out the general accusation levied against the Defendant in the Information. Thus, there can be no reasonable argument that the evidence presented was merely propensity evidence or that she was somehow unfairly surprised and prejudiced by the evidence presented at trial.

The Defendant also argues that the Court should have given further instruction to the jury defining a "common scheme or plan." She does *not* complain that the instructions given to the jury were an incorrect statement of the law. The Defendant's argument is unpersuasive. She relies again upon the language in *State v. Bussard*, 114 Idaho 781 (see above) for a definition. As noted above, *Bussard* had nothing to do with a common scheme or plan as it relates to Grand Theft and was strictly limited to I.R.E. 404(b), so any reliance on *Bussard* is misplaced. The Idaho Code itself does not define the term "common scheme or plan" and the phrase is comprised of ordinary words that are commonly understood and which require no special

definition.⁴ The Defendant herself offers no more specific alternative than to argue that the jury should have at least been instructed that the phrase has some “threshold minimum.” However, she provides no persuasive argument that the jury, in the context of the evidence presented, could not understanding the plain meaning of the phrase as used in the instructions.

Finally, the Defendant argues that “the jury was allowed to consider objected-to testimony from the Defendant herself concerning material that was well outside the scope of any question propounded by the Defendant’s attorney.” (Def’s Memorandum at 5.) Her memorandum does not further identify to what testimony she is referring or how such testimony resulted in prejudice, and with such a lack of specificity in her argument the State is unable to fully meaningfully respond on this issue. However, the Defendant claims that I.R.E. 611(b) was violated, which it should be noted gives the Court discretion to “permit inquiry into additional matters as if on direct examination.” Furthermore, I.R.E. 102 states that the evidence rules “shall be construed . . . to the end that the truth may be ascertained and proceedings justly determined.” Idaho appellate courts also have taken the view that trial judges have broad discretion in admitting evidence at trial and their decisions will only be disturbed on appeal when there has been a clear abuse of discretion. *See, e.g., State v. Christopherson*, 108 Idaho 502, 505 (Ct. App. 1985) (citing *State v. Terry*, 98 Idaho 285 (1977)).

Thus, the Defendant has not shown any sufficient reason, required in the interest of justice, that the Court should grant a new trial on the Grand Theft charge. The Court should therefore deny the Defendant’s motion as to that charge.

⁴ In *State v. Dunlap*, 155 Idaho 345 (2013), which was a death penalty case, the Defendant argued that the phrase “sufficiently compelling” should have been defined more precisely for the jury because it might have been led to believe that the phrase required a specific quantity of mitigation evidence to overcome the aggravating

circumstance. The Court rejected that argument, stating that it was unnecessary to define the phrase “because the phrase is comprised of ordinary words that do not require definition.” *Id.* at 365.

FORGERY

Similarly, the Defendant's arguments for a new trial on the Forgery charge are unpersuasive. The Defendant argues that the Court's instruction on the elements of Forgery in this case and the instruction generally defining what forgery is (Instructions 11 and 12, respectively) created an ambiguity or defect as evidenced by the jury's question to the Court. (See attached jury question and the Court's response.) The Defendant states that no additional instruction to the jury was given and that this all resulted in error and a violation of her right to a fair trial. The Defendant does not argue that either Instruction 11 or 12 were incorrect statements of the law, and in fact she acknowledges that they were true and correct statements of the law.

As the Defendant also acknowledges, deciding whether to give further clarifying jury instructions is a matter of discretion left to the trial judge where the jury has received correct and adequate statements on the law. In this case Instruction number 12 informed the jury of the general definition of the crime of Forgery which, while tracking the statutory language of I.C. § 18-3601, provided a distilled and clearer version of that somewhat convoluted statute. While that instruction included conduct that could constitute Forgery but was not specifically alleged in this case, Instruction 11 very specifically informed the jury of the elements that must be found to have been proven beyond a reasonable doubt *in this case* for the Defendant to be found guilty. Element number 5 of Instruction 11 very clearly stated that for the jury to find the Defendant guilty it must find that the evidence proved beyond a reasonable doubt that she "falsely made, altered, or forged a written instrument . . . by adding Ana Garcia to the "Pay to the Order of" section of the check knowing the same to be false, altered, or forged with the intent to prejudice, damage, or defraud any person. Then, in response to the jury's question, the Court did in fact further reiterate by way of instruction that Instruction 11 provided the elements of Forgery that

apply in this case, and clarified that Instruction 12 contained the definition of Forgery under Idaho law. (See attached jury question and the Court's response.) There is nothing more the Court could have said by way of instruction that could have stated any clearer for the jury what needed to be proven for the Defendant to be found guilty.

The Defendant relies upon *State v. Pinkney*, 115 Idaho 1152 (Ct. App. 1989) for her argument that this Court should have given additional instruction when the jury raised a question about the Forgery charge. However, *Pinkney* is distinguishable from this case. In *Pinkney*, the defendant was charged with aggravated battery for wounding with a firearm a person he viewed as an attacker. At trial the jury learned that Pinkney was a convicted felon, but the court instructed that the previous conviction could only be considered for impeachment purposes. The jury also was instructed on self-defense. During deliberations the jury sent a question to the judge asking whether self-defense applied to lesser included offenses and whether Pinkney's presumably unlawful possession of the firearm would negate self-defense as to lesser included offenses. The judge simply directed the jurors to review the instructions as a whole and told them not to speculate about the law. The jury thereafter convicted Pinkney of injuring another by discharge of a firearm. Pinkney appealed, claiming that the judge should have expressly instructed that self-defense applied to included offenses and should have given further instruction about the effect (or perhaps non-effect) of unlawful firearm possession on self-defense. *Id.* at 1153.

The court of appeals held that the trial court did not err in declining to instruct further on the applicability of self-defense to included offenses. However, the court of appeals found that the trial court should have instructed further on the effect of unlawful firearm possession, and

that the failure to clarify this point of law allowed the jurors to speculate as to the law. *Id.* at 1154.

The case before this Court is distinguishable from *Pinkney* in that the jury in *Pinkney* raised a question on a point of law that was not already adequately covered by the instructions. The jury had been given instructions on self-defense, but not on the effect, if any, that unlawful possession of a firearm might have on a person's right of self-defense. The court, therefore, should have specifically addressed the jury's question on that point, which revealed an actual defect, ambiguity, or gap in the instructions. In this case, however, the question raised by the jury dealt with a point of law that already correctly, adequately and specifically had been covered by the instructions. Nevertheless, the Court also, by way of clarification, redirected the jury's attention to Instruction 11 containing the specific elements of Forgery which the State had the burden of proving beyond a reasonable doubt. Considering the instructions as a whole, and specifically Instruction 11 (elements instruction), the jury was not left to speculate about the law and precisely what the evidence needed to prove for the Defendant to be found guilty. Thus, the Court was under no duty to give further instructions to the jury.

Although this is not an appellate proceeding, it is helpful to consider the standards that Idaho appellate courts use in addressing arguments about alleged errors in jury instruction by a trial court. When reviewing jury instructions, appellate courts "ask whether the instructions as a whole, and not individually, fairly and accurately reflect applicable law." *State v. Hadden*, 152 Idaho 371, 374 (Ct. App. 2012). They also "presume the jury followed the district court's instructions." *Id.* In this case, the jury was given a general definition of forgery, but they were specifically, clearly and correctly instructed as to the elements that must be proven beyond a reasonable doubt for the Defendant to be found guilty. Taken as a whole, the Court's

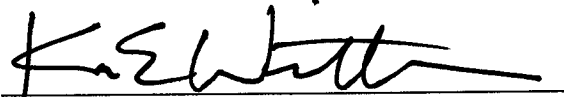
instructions were correct and proper. It also must be presumed that the jury followed the Court's instructions in Instruction 11 and found the Defendant guilty only after finding that the specific required elements set forth therein had been proven beyond a reasonable doubt.

CONCLUSION

The Defendant has not shown any reason why the Court should grant her motion for judgment of acquittal as to either the Grand Theft or Forgery charge. To the contrary, the weight of the evidence is heavily against the Defendant and supports the legal elements that were necessarily found by the jury to exist. Likewise, the Defendant has not shown any adequate reason that, in the interest of justice, requires a new trial as to either charge. Based upon the foregoing, the State requests that the Court deny the Defendant's motions.

RESPECTFULLY SUBMITTED this 5th day of January, 2015.

JAN M. BENNETTS
Ada County Prosecuting Attorney



By: Kai E. Wittwer
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of January, 2015, a true and correct copy of the foregoing STATE'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S MOTION FOR JNOV (JUDGMENT OF ACQUITTAL) AND MOTION FOR NEW TRIAL was served to: AARON J. TRIBBLE, Eagle Law Center, 1191 E. Iron Eagle Dr., Ste. 200, Eagle ID 83616, in the manner noted below:

- ☐ By hand delivery.
- ☒ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: _____

Elaine Robey
Legal Assistant

JUROR QUESTION TO JUDGE DURING DELIBERATION

DO NOT DESTROY - RETURN TO BAILIFF

DATE 12-8-14

CASE # CR-FE-2014-0005550

TO JUDGE Bail

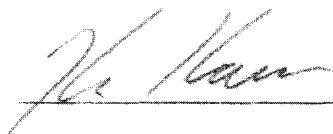
FOREMAN NAME Kris Kamann

QUESTION AND/OR REMARK:

Count # 2
Does the deposit to Gonzales' Acct
define Forgery?

OR

Does "withdrawing the change
to payline define Forgery"



FOREMAN SIGNATURE

Instruction No. 11 gives you the elements of forgery which the State has to prove beyond a reasonable doubt. Instruction No. 12 has the definition of forgery under Idaho law.

Debra M. S.
District Judge

Time	Speaker	Note
<u>05:32:54 PM</u>		CRFE14-5550 St v Ana Herreman-Garcia Sentencing
<u>05:33:10 PM</u>		Defendant present on bond
<u>05:33:12 PM</u>	State Attorney	Kai Wittwer
<u>05:33:13 PM</u>	Personal Attorney	Aaron Tribble
<u>05:34:01 PM</u>	State Attorney	notes change in the restitution amount
<u>05:35:18 PM</u>	State Attorney	Recommends Count I - 2 + 12 and Count II - 2 + 5, concurrent, restitution
<u>05:44:31 PM</u>	Personal Attorney	Recommends probation, objects to the restitution amount
<u>05:50:50 PM</u>	Personal Attorney	Submits to the Court on briefing regarding Motion for New Trial and/or JNOV
<u>05:52:49 PM</u>	State Attorney	Submits to the Court on briefing regarding Motion for New Trial and/or JNOV
<u>05:52:52 PM</u>	Judge	Denies the Motion for New Trial and/or JNOV
<u>05:53:51 PM</u>	Judge	Imposes Sentence: Count I - 6 months + 5 1/2 years
<u>05:54:07 PM</u>		Count II - 6 months + 5 1/2 years, concurrent
<u>06:02:37 PM</u>		restitution
<u>06:03:26 PM</u>		Advises the defendant he/she has 42 days to appeal
<u>06:04:08 PM</u>		Defendant is remanded into custody

12/5/14
gg 1 & 11

5/20 - 21 = 2
12/5/14 = 1
3

JAN 28 2015

CHRISTOPHER D. RICH, Clerk
By LINDA SIMS-DONALDAS
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

Case No. CR-FE-2014-0005550

vs.

ANA GISELLE HERREMAN-GARCIA,

JUDGMENT & COMMITMENT

Defendant.

On the 26th day of January, 2015, before the Honorable Deborah A. Bail, District Judge, personally appeared Kai Wittwer, Deputy Prosecuting Attorney for the County of Ada, State of Idaho, and the Defendant with her attorney, Aaron Tribble, this being the time fixed for pronouncing judgment in this matter.

The Defendant has been convicted upon a finding of guilty by jury to the offenses of COUNT I: GRAND THEFT, FELONY, I.C. §§18-2403(1), 18-2407(1)(b) and 18-2409; and COUNT II: FORGERY, FELONY, I.C. §18-3601, of the Information. The Court having asked whether the Defendant had any legal cause to show why judgment should not be pronounced against her, and no objection was made by either the State or the Defense to the entry of judgment;

IT IS ADJUDGED that the Defendant is sentenced pursuant to Idaho Code §19-2513 to the custody of the Idaho State Board of Correction, to be held and incarcerated by said Board in a suitable place for a period of time as follows:

1 **COUNT I:** For a minimum fixed and determinate period of confinement of one-half
2 (½) year (6 months); with the fixed minimum period followed by an indeterminate period of
3 custody of up to five and one-half (5½) years, for a total term not to exceed six (6) years.
4

5 **COUNT II:** For a minimum fixed and determinate period of confinement of one-half
6 (½) year (6 months); with the fixed minimum period followed by an indeterminate period of
7 custody of up to five and one-half (5½) years, for a total term not to exceed six (6) years, to
8 run concurrently with Count I.
9

10 Pursuant to Idaho Code §18-309, the Defendant shall be given credit for the time
11 already served in this case in the amount of three (3) days.
12

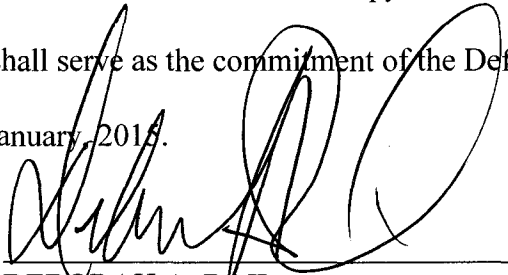
13 IT IS FURTHER ORDERED that the Defendant shall pay restitution in the amount of
14 Thirty-Four Thousand, Five Hundred Sixty-Nine and 96/100 (\$34,569.96) Dollars.
15

16 IT IS FURTHER ORDERED that the Defendant must provide a DNA sample and
17 thumbprint impression, as required by law.
18

19 IT IS FURTHER ORDERED that the Defendant is committed to the custody of the
20 Sheriff of Ada County, Idaho, for delivery forthwith to the custody of the Idaho State Board
21 of Correction at the Idaho State Penitentiary or other facility within the state designated by
22 the State Board of Correction.
23

24 IT IS FURTHER ORDERED that the Clerk deliver a certified copy of this Judgment
25 and Commitment to the said Sheriff, which shall serve as the commitment of the Defendant.
26

27 Done in open Court this 26th day of January, 2015.
28

29 
DEBORAH A. BAIL
District Judge

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 28th day of January, 2015, I mailed (served) a true and correct copy of the within instrument to:

ADA COUNTY PROSECUTOR
VIA – EMAIL

AARON J. TRIBBLE
ATTORNEY AT LAW
1191 E IRON EAGLE DR STE 200
EAGLE ID 83616

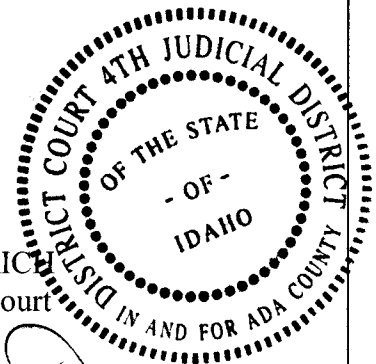
mailed 1/29/15

ADA COUNTY JAIL
VIA – EMAIL

DEPARTMENT OF CORRECTION
CENTRAL RECORDS
VIA – EMAIL

PROBATION & PAROLE-PSI DEPARTMENT
VIA – EMAIL

CHRISTOPHER D. RICH
Clerk of the District Court



By: *[Signature]*

Deputy Court Clerk

Ada County Mugshot - Prosecutor's Office



User: PRHARRSK

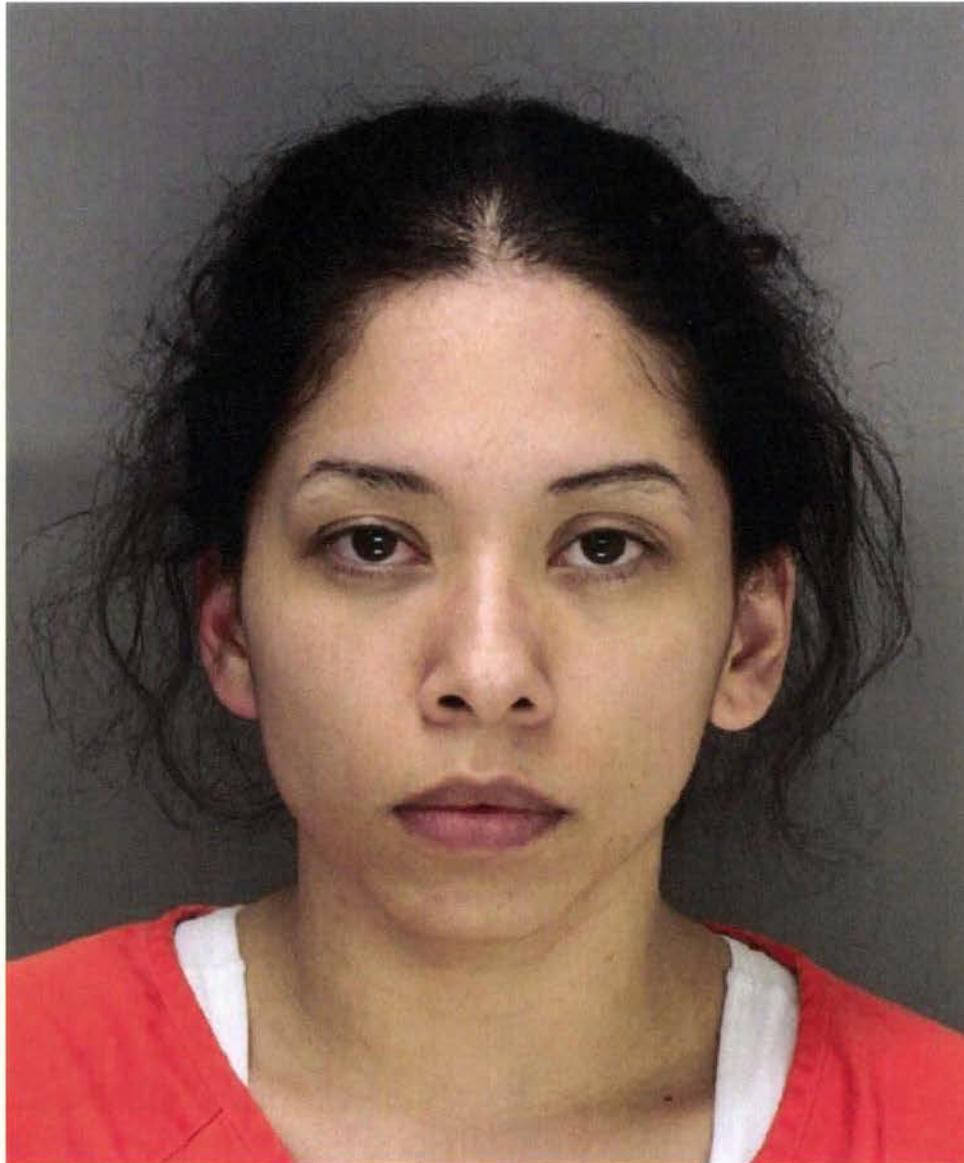


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Name: HERREMAN-GARCIA, ANA GISELLE

Case #: CR-FE-2014-0005550

LE Number: 1032161

Height: 511

Weight: 120

Drivers License Number:

Drivers License State:

Sex: F **Race:** W **Eye Color:** BRO **Hair Color:** BLK **Facial Hair:**

Marks: BACK

Scars:

Tattoos:

000167

D. _____
A.M. _____ FILED _____ P.M. 2:28

JAN 28 2015

CHRISTOPHER D. RICH, Clerk
By LINDA SIMS-DOUGLAS
DEPUTY

Jan M. Bennetts
Ada County Prosecuting Attorney

Kai E. Wittwer
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700
Fax: (208)-287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
Ana Giselle Herreman-Garcia,)
)
Defendant.)
_____)

Case No. CR-FE-2014-0005550
ORDER FOR RESTITUTION
AND JUDGMENT

WHEREAS, on the 26th day of January 2015, a Judgment of Conviction was entered against the Defendant, Ana Giselle Herreman-Garcia, and therefore pursuant to Idaho Code §19-5304 and based on evidence presented to this Court,

IT IS HEREBY ORDERED, that the Defendant, Ana Giselle Herreman-Garcia, shall make restitution to the victim(s) and/or law enforcement agency(ies) in the following amounts:

cc: PA / A

AA LANDSCAPE AND MAINTENANCE LLC

\$34,569.96

TOTAL:

\$34,569.96

Post judgment interest on said restitution amount will accrue from the date of this Order and Judgment at the rate specified in Idaho Code §28-22-104.

FURTHER, pursuant to I.C. §19-5305, this Order may be recorded as a judgment against the Defendant, Ana Giselle Herreman-Garcia, and the listed victim(s) may execute as provided by law for civil judgments.

FURTHER, it is the responsibility of the Defendant to notify the Restitution Department (208-287-7700) if at any time a victim collects by means of the civil judgment.

IT IS SO ORDERED.

DATED this 26th day of January 2015.


Judge

147

FEB 09 2015

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

Aaron J. Tribble ISB#8951
Eagle Law Center
1191 E. Iron Eagle Dr.
Suite 200
Eagle, ID 83616
T: 208-938-9500
F: 208-938-9504
E: aaron@eaglelawcenter.com

Attorney for Defendant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,	}	CASE NO. CR-FE-2014-0005550
Plaintiff-Respondent,		
vs.		NOTICE OF APPEAL
GISELLE HERREMAN,		
Defendant-Appellant.		

TO: THE ABOVE NAMED RESPONDENT, the attorney for the Respondent, and the Clerk of the above-entitled court.

NOTICE IS HEREBY GIVEN THAT:

1. The above-named Appellant GISELLE HERREMAN appeals against the above-named Respondents to the Idaho Supreme Court from *Judgment and Commitment of Conviction*.

MO

1 entered in the above-entitled action on the day of January 28, 2015, Honorable
2 Deborah Bail presiding.

3
4 2. The Appellant has a right to appeal to the Idaho Supreme Court, and the judgment
5 described in paragraph 1 above is appealable under and pursuant to I.A.R. 11(a)(1).

6
7 3. The preliminary issues are,

8
9 (1) Did the court err in denying the Defendant's motion for new trial?

10 (2) Did the court err in denying the Defendant's motions for JNOV?

11 (3) Did the court err in the admission of certain evidence at trial?

12
13 This list does not prevent the Appellant from asserting other issues not on this list.

14
15 4. No orders have been entered sealing any portion of the record.

16
17 5. A reporter's transcript is requested in hard copy for the following proceedings:

18
19 Preliminary Hearing held on July 17, 2014

20
21 Trial 12/2/2014 – "Hearing result for Jury Trial scheduled on 12/02/2014 01:30
22 PM: District Court Hearing Held Court Reporter: Susan Gambee Number
23 of Transcript Pages for this hearing estimated: 250"

24 Trial 12/3/2014 – "District Court Hearing Held Court Reporter: Susan Gambee
25 Number of Transcript Pages for this hearing estimated: 500 - Jury Trial
26 Day 2"

27 Trial 12/4/2014 – "District Court Hearing Held Court Reporter: Susan Gambee
28 Number of Transcript Pages for this hearing estimated: 500 - Jury Trial

1 Day 3"

2 Trial 12/05/2014 – "Hearing result for Jury Trial scheduled on 12/05/2014 09:30

3 AM: District Court Hearing Held Court Reporter: Susan Gambee Number
4 of Transcript Pages for this hearing estimated: 500, Day 4 Jury Trial"

5 Sentencing Hearing 1/26/2015 – "Hearing result for Sentencing scheduled on
6 01/26/2015 03:00 PM: District Court Hearing Held Court Reporter: Susan
7 Gambee Number of Transcript Pages for this hearing estimated: less than
8 100"

9
10 6. The Appellant requests the following documents be included in the clerk's record in
11 addition to those automatically included under I.A.R. 28.

12
13 All documents.

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16 7. All exhibits in the Court's possession from the above mentioned hearings are requested
17 to be included in the appeal record.

18
19 8. I certify:

20
21 (a) That a copy of this notice of appeal has been served on each reporter of whom
22 a transcript has been requested as named below at the address set out below:

23
24 **Susan Gambee**

25 Ada County Courthouse

26 200 W. Front Street

27 Boise, ID 83702

1 (b) That the clerk of the district court has been paid the estimated fee for
2 preparation of the reporter's transcript.

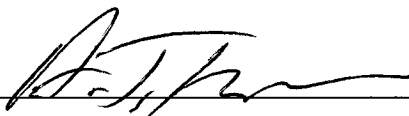
3
4 (c) That the estimated fee for preparation of the clerk's record has been paid.

5
6 (d) That the appellate filing fee has been paid.

7
8 (e) That service has been made upon all parties required to be served pursuant to
9 I.A.R. 20.

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15 Dated: ~~January~~ ^{February} 9th, 2015

16
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18 Respectfully Submitted,

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21 By: 

22
23 Aaron J. Tribble

24 *Attorney for Defendant*

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of February, 2015, I caused a true and correct copy of the foregoing document to be served by the method indicated below, and addressed to the following:

Ada County Prosecutor's Office
200 W. Front Street Room 3191
Boise, ID 83702
Fax: 208-287-7709

☐ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☒ Facsimile



Aaron J. Tribble

Attorney for Defendant

FEB 09 2015

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

Aaron J. Tribble ISB#8951
Eagle Law Center
1191 E. Iron Eagle Dr.
Suite 200
Eagle, ID 83616
T: 208-938-9500
F: 208-938-9504
E: aaron@eaglelawcenter.com
Attorney for Defendant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,	}	CASE NO. CR-FE-2014-0005550
Plaintiff,		
vs.		MOTION TO STAY IMPRISONMENT
GISELLE HERREMAN,		
Defendant.		

The Defendant, ANA GISELLE HERREMAN GARCIA, by and through her attorneys, move this Court to enter an order staying imprisonment. This motion is made pursuant to Idaho Criminal Rule 38(b) and is based upon a *Notice of Appeal* filed concurrently with this motion, and upon the records, transcripts, and pleadings filed herein.

After jury conviction on December 5, 2014, Ms. Herreman-Garcia was admitted to bail upon the posting of a \$50,000 bond. Circumstances at this point in time are unchanged from

ORIGINAL

mo

1 December 5, 2014. Ms. Herreman-Garcia still has strong family ties in the Boise area, has posted
2 two bonds with the Court, and has appeared at every hearing despite having to travel from her
3 home in North Dakota each and every time. Ms. Herreman-Garcia is obviously dedicated to
4 clearing her name and dedicated to showing up to Court when and where she is required. Her
5 flight risk is minimal at best. The bond amount should be left at \$50,000.

6 As such, Ms. Herreman-Garcia requests that she be admitted to bail upon posting of a
7 bond of \$50,000 and her judgment of imprisonment stayed pending her appeal to the Idaho
8 Supreme Court. A proposed order reflecting this amount is included with this motion.

9
10 DATED this 9th day of February, 2015.

11
12 

13 Aaron J. Tribble

14 *Attorney for Defendant*
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1 **CERTIFICATE OF SERVICE**

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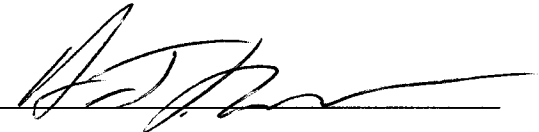
3 I HEREBY CERTIFY that on this 9th day of February, 2015, I caused a true and

4 correct copy of the foregoing document to be served by the method indicated below, and

5 addressed to the following:

6 Ada County Prosecutor's Office
7 200 W. Front Street Room 3191
8 Boise, ID 83702
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(☒) Facsimile

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12 Aaron J. Tribble

13 *Attorney for Defendant*

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FEB 11 2015

CHRISTOPHER D. RICH, Clerk
By TARA VILLEREAL
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

ANA GISELLE HERREMAN-GARCIA,

Defendant.


CASE NO. CRFE14-5550

ORDER DENYING MOTION
TO STAY IMPRISONMENT

This Court is in receipt of the Defendant's Motion to Stay Imprisonment, and has reviewed its contents.

IT IS HEREBY ORDERED that the Defendant's Motion to Stay Imprisonment is denied.

Dated this 10th day of February, 2015.


DEBORAH A. BAIL
District Judge

CERTIFICATE OF MAILING

I hereby certify that on this 11th day of February, 2015, I mailed (served) a true and correct copy of the within instrument to:

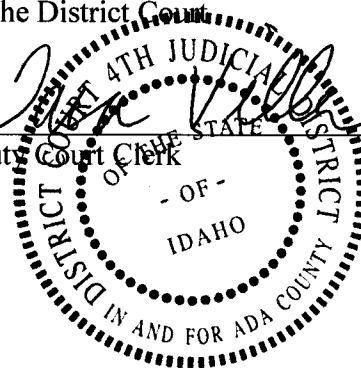
ADA COUNTY PROSECUTOR'S OFFICE
INTER-DEPARTMENTAL MAIL

AARON TRIBBLE
ATTORNEY AT LAW
1191 E IRON EAGLE DR STE 200
EAGLE ID 83616

CHRISTOPHER D. RICH
Clerk of the District Court

By: 

Deputy Court Clerk



TIME RECEIVED
February 21, 2015 2:20:06 PM MST

REMOTE CSID
9389504

DURATION PAGES
97 5

STATUS
Received

Feb. 21. 2015 2:22PM Law Office

No. 5181 FILED P.M. 1/5

FEB 23 2015

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

Aaron J. Tribble ISB#8951
Eagle Law Center
1191 E. Iron Eagle Dr.
Suite 200
Eagle, ID 83616
T: 208-938-9500
F: 208-938-9504
E: aaron@eaglelawcenter.com

Attorney for Defendant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,
Plaintiff-Respondent,
vs.
GISELLE HERREMAN,
Defendant-Appellant.

CASE NO. CR-FE-2014-0005550

AMENDED NOTICE OF APPEAL

TO: THE ABOVE NAMED RESPONDENT, the attorney for the Respondent, and the Clerk of
the above-entitled court.

NOTICE IS HEREBY GIVEN THAT:

1. The above-named Appellant GISELLE HERREMAN appeals against the above-named Respondents to the Idaho Supreme Court from *Judgment & Commitment*,

1 and *Order for Restitution and Judgment* entered in the above-entitled action on the
2 day of January 28, 2015, Honorable Deborah Bail presiding.

3
4 2. The Appellant has a right to appeal to the Idaho Supreme Court, and the judgment
5 described in paragraph 1 above is appealable under and pursuant to I.A.R. 11(a)(1).

6
7 3. The preliminary issues are,

8
9 (1) Did the court err in denying the Defendant's motion for new trial?

10 (2) Did the court err in denying the Defendant's motions for JNOV?

11 (3) Did the court err in the admission of certain evidence at trial?

12 (4) Did the court err in its entry of a restitution order?

13
14 This list does not prevent the Appellant from asserting other issues not on this list.

15
16 4. No orders have been entered sealing any portion of the record.

17
18 5. A reporter's transcript is requested in hard copy for the following proceedings:

19
20 Preliminary Hearing held on July 17, 2014

21
22 Trial 12/2/2014 – "Hearing result for Jury Trial scheduled on 12/02/2014 01:30

23 PM: District Court Hearing Held Court Reporter: Susan Gambee Number
24 of Transcript Pages for this hearing estimated: 250"

25 Trial 12/3/2014 – "District Court Hearing Held Court Reporter: Susan Gambee

26 Number of Transcript Pages for this hearing estimated: 500 - Jury Trial
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1 Number of Transcript Pages for this hearing estimated: 500 - Jury Trial
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7 01/26/2015 03:00 PM: District Court Hearing Held Court Reporter: Susan
8 Gambee Number of Transcript Pages for this hearing estimated: less than
9 100"

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11 6. The Appellant requests the following documents be included in the clerk's record in
12 addition to those automatically included under I.A.R. 28.

13
14 All documents.

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16
17 7. All exhibits in the Court's possession from the above mentioned hearings are requested
18 to be included in the appeal record.

19
20 8. I certify:

21
22 (a) That a copy of this notice of appeal has been served on each reporter of whom
23 a transcript has been requested as named below at the address set out below:

24
25 Susan Gambee
26 Ada County Courthouse
27 200 W. Front Street
28 Boise, ID 83702

1
2 (b) That the clerk of the district court has been paid the estimated fee for
3 preparation of the reporter's transcript.

4
5 (c) That the estimated fee for preparation of the clerk's record has been paid.

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7 (d) That the appellate filing fee has been paid.

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9 (e) That service has been made upon all parties required to be served pursuant to
10 I.A.R. 20.

11
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16 Dated: February 21st, 2015

17
18
19 Respectfully Submitted,

20
21
22 By: 

23
24 Aaron J. Tribble

25 *Attorney for Defendant*

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8 **CERTIFICATE OF SERVICE**

9
10 I HEREBY CERTIFY that on this 21st day of February, 2015, I caused a true and
11 correct copy of the foregoing document to be served by the method indicated below, and
12 addressed to the following:

13 Ada County Prosecutor's Office
14 200 W. Front Street Room 3191
15 Boise, ID 83702
16 Fax: 208-287-7709

() U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
(x) Facsimile

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19 Aaron J. Tribble

20 *Attorney for Defendant*
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TIME RECEIVED
April 17, 2015 11:15:59 AM MDT

REMOTE CSID
9389504

DISTRICTION PAGES
109 30

STATUS
Received

Apr. 17. 2015 11:18AM Law Office

NO. 5566 P. 1/5
A.M. P.M.

APR 17 2015

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

Aaron J. Tribble ISB#8951
Eagle Law Center
1191 E. Iron Eagle Dr.
Suite 200
Eagle, ID 83616
T: 208-938-9500
F: 208-938-9504
E: aaron@eaglelawcenter.com

Attorney for Defendant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,

Plaintiff,

vs.

GISELLE HERREMAN,

Defendant.

CASE NO. CR-FE-2014-0005550

**MOTION TO TRANSPORT AND
RELEASE ON BOND**

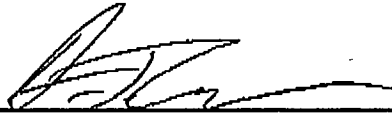
The Defendant, by and through his attorney of record, respectfully requests that this Court order the Idaho Department of Corrections ("IDOC") to transport Ana Giselle Herreman-Garcia, the Defendant, to the Ada County Jail and that the Ada County Sheriff process her release upon the posting of a bond of \$50,000. The Defendant is currently being housed at the Pocatello Women's Correctional Center (PWCC) under the control of the Idaho Department of Correction (IDOC).

This motion is supported by the records and pleadings filed in this case as well as the

1 attached Exhibit A, a true and correct copy of *Order Granting Motion to Stay Imprisonment*
2 approved by the Idaho Supreme Court.

3 No hearing is requested in this matter. Proposed orders with self-addressed stamped
4 envelopes are being mailed to the Court presently. Sample proposed orders are faxed herewith.

5
6
7 DATED this 17th day of April, 2015.

8
9 

10 Aaron J. Tribble

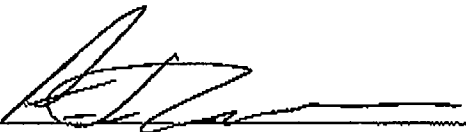
11 *Attorney for Defendant*

12
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16 **CERTIFICATE OF SERVICE**

17
18 I HEREBY CERTIFY that on this 17th day of April, 2015, I caused a true and
19 correct copy of the foregoing document to be served by the method indicated below, and
20 addressed to the following:

21 Ada County Prosecutor's Office
22 200 W. Front Street Room 3191
23 Boise, ID 83702
Fax: 208-287-7709

() U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
(x) Facsimile

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27 Aaron J. Tribble

28 *Attorney for Defendant*

In the Supreme Court of the State of Idaho

STATE OF IDAHO,

Plaintiff-Respondent,

v.

ANA GISELLE HERREMAN-GARCIA,

Defendant-Appellant.

ORDER GRANTING MOTION TO
STAY IMPRISONMENTSupreme Court Docket No. 42941-2015
Ada County No. CR-2014-5550

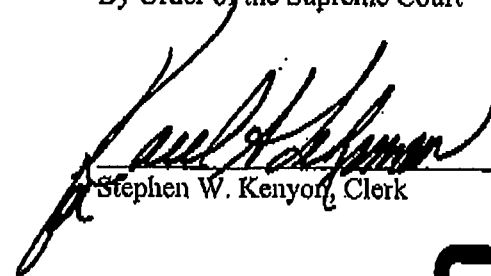
Ref. No. 15-105

A MOTION TO STAY IMPRISONMENT and an AFFIDAVIT OF AARON J. TRIBBLE IN SUPPORT OF MOTION TO STAY IMPRISONMENT with attachments were filed by counsel for Appellant on February 27, 2015, requesting Appellant be admitted to bail upon posting of a bond of \$50,000 and her judgment of imprisonment stayed pending her appeal to this Court. Thereafter, an OBJECTION TO "MOTION TO STAY IMPRISONMENT" was filed by counsel for Respondent on March 4, 2015. A SUPPLEMENTAL AFFIDAVIT OF AARON J. TRIBBLE IN SUPPORT OF MOTION TO STAY IMPRISONMENT was filed by counsel for Appellant on March 6, 2015. The Court is fully advised; therefore, good cause appearing,

IT HEREBY IS ORDERED that Appellant's MOTION TO STAY IMPRISONMENT be, and hereby is, GRANTED and Appellant shall be admitted to bail upon posting of a bond of \$50,000 and her judgment of imprisonment stayed pending her appeal to this Court.

DATED this 8th day of April, 2015.

By Order of the Supreme Court


Stephen W. Kenyon, Clerk

cc: Counsel of Record
District Judge Deborah A. Bail
District Court Clerk

EXHIBIT

A

TO: Clerk of the Court
Idaho Supreme Court
451 West State Street
Boise, Idaho 83720
(208) 334-2616

NO. _____
A.M. 8:22 FILED P.M. _____

APR 29 2015
CHRISTOPHER D. RICH, Clerk
By KELLE WEGENER
DEPUTY

IN THE SUPREME COURT OF THE STATE OF IDAHO


----- x Docket No. 42941
STATE OF IDAHO, :
 :
Plaintiff-Respondent, :
 :
vs. :
 :
ANA HERREMAN GARCIA, :
 :
Defendant-Appellant. :
 :
----- x

NOTICE OF TRANSCRIPT OF 717 PAGES LODGED

Appealed from the District Court of the
Fourth Judicial District of the State of
Idaho, in and for the County of Ada,
Deborah A. Bail, District Court Judge.

This transcript contains hearing held on:
12/2-5/14 & 1/26/15

DATE: April 28, 2015



Susan G. Gambee, Official Court Reporter
Official Court Reporter,
Judge Deborah Bail
Ada County Courthouse
Idaho Certified Shorthand Reporter No. 18
Registered Merit Reporter

KW

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

ANA GISELLE HERREMAN-GARCIA,

Defendant-Appellant.

Supreme Court Case No. 42941

CERTIFICATE OF EXHIBITS

I, CHRISTOPHER D. RICH, Clerk of the District Court of the Fourth Judicial District of the State of Idaho in and for the County of Ada, do hereby certify:

That the attached list of exhibits is a true and accurate copy of the exhibits being forwarded to the Supreme Court on Appeal.

I FURTHER CERTIFY, that the following documents will be submitted as CONFIDENTIAL EXHIBITS to the Record:

1. Presentence Investigation Report.

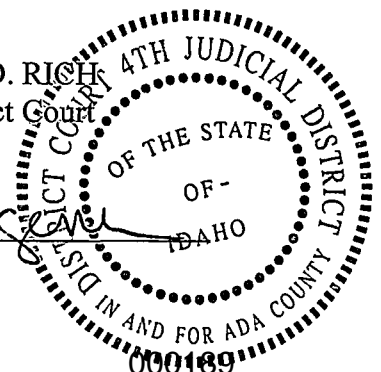
I FURTHER CERTIFY, that the following documents will be submitted as EXHIBITS to the Record:

1. Transcript of Preliminary Hearing held July 17, 2014, Boise, Idaho, filed September 15, 2014.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 29th day of April, 2015.

CHRISTOPHER D. RICH
Clerk of the District Court

By KW Wesen
Deputy Clerk



CERTIFICATE OF EXHIBITS

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

HONORABLE DEBORAH A. BAIL
Clerk: Tara Villereal/Ric Nelson
Court Reporter: Susan Gambée

December 2-5, 2014

THE STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
ANA GISELLE HERREMAN-GARCIA,)
)
Defendant.)

Case No. CR-FE-2014-005550

**EXHIBIT LIST
JURY TRIAL**

Counsel for State: Kai Wittwer
Counsel for Defendant: Aaron Tribble

STATE'S EXHIBITS	Admitted	Date Admit
-------------------------	-----------------	-------------------

1.	A & A Landscape paycheck stubs, time sheets & paycheck copies	Admitted	12/03/14
2.	Copy of 10 checks	Admitted	12/03/14
3.	Copy of check # 5008	Admitted	12/02/14
4.	Certified account records from ICON credit union	Admitted	12/02/14
5.	Copy of check # 581	Admitted	12/02/14
6.	Certified account records from Washington Federal	Admitted	12/02/14
7.	Agreement to Pay Debt by Installments	Admitted	12/03/14
8.	Certified account records from US Bank	Admitted	12/03/14
9.	Certified account records from Bank of America	Admitted	12/04/14
10.	Summary of paychecks	Admitted	12/04/14
11.	Summary of other checks	Admitted	12/04/14
12.	Summary of ATM withdrawals and deposits	Admitted	12/04/14

DEFENDANT'S EXHIBITS	Admitted	Date Admit
-----------------------------	-----------------	-------------------

A.	US Bank account authorization letter	Admitted	12/03/14
B.	Police Report	Identified NOT Admitted	12/04/14
C.	Police Report	Identified NOT Admitted	12/04/14

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

ANA GISELLE HERREMAN-GARCIA,

Defendant-Appellant.

Supreme Court Case No. 42941

CERTIFICATE OF SERVICE

I, CHRISTOPHER D. RICH, the undersigned authority, do hereby certify that I have personally served or mailed, by either United States Mail or Interdepartmental Mail, one copy of the following:

CLERK'S RECORD AND REPORTER'S TRANSCRIPT

to each of the Attorneys of Record in this cause as follows:

AARON J. TRIBBLE

ATTORNEY FOR APPELLANT

EAGLE, IDAHO

LAWRENCE G. WASDEN

ATTORNEY FOR RESPONDENT

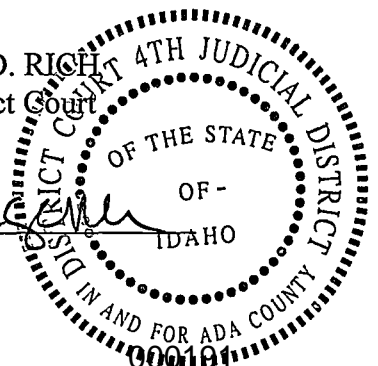
BOISE, IDAHO

Date of Service: _____

CERTIFICATE OF SERVICE

CHRISTOPHER D. RICH
Clerk of the District Court

By KW Weeden
Deputy Clerk



IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

ANA GISELLE HERREMAN-GARCIA,

Defendant-Appellant.

Supreme Court Case No. 42941

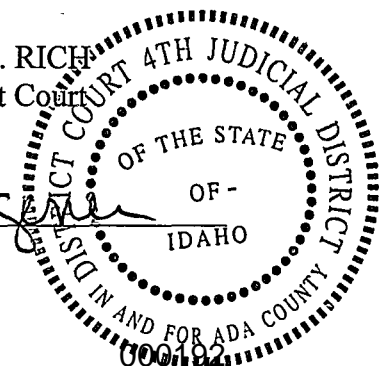
CERTIFICATE TO RECORD

I, CHRISTOPHER D. RICH, Clerk of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, do hereby certify that the above and foregoing record in the above-entitled cause was compiled under my direction and is a true and correct record of the pleadings and documents that are automatically required under Rule 28 of the Idaho Appellate Rules, as well as those requested by Counsel.

I FURTHER CERTIFY, that the Notice of Appeal was filed in the District Court on the 9th day of February, 2015.

CHRISTOPHER D. RICH
Clerk of the District Court

By K. W. Wesen
Deputy Clerk



CERTIFICATE TO RECORD